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**FINAL**  
CITY COUNCIL  
CITY OF WICHITA  
KANSAS

City Council Meeting  
09:00 a.m. April 10, 2012

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of the regular meeting on April 3, 2012

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**VICE MAYOR OATH OF OFFICE**

- Presentation to outgoing Vice Mayor Williams
- Swearing in of New Vice Mayor  
(Oath of Office administered by Judge Jennifer Jones)
- Comments from Mayor and City Council Members

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**AWARDS AND PROCLAMATIONS**

- Proclamations:  
  
Fair Housing Month  
Community Development Week  
Financial Literacy Month

**I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

None

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## **II. CONSENT AGENDAS (ITEMS 1 THROUGH 19)**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*

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## **COUNCIL BUSINESS**

### **III. UNFINISHED COUNCIL BUSINESS**

None

### **IV. NEW COUNCIL BUSINESS**

1. Public Hearing on the Establishment of the Southfork Redevelopment District, Tax Increment Financing.  
(District III)

RECOMMENDED ACTION: Close the public hearing and place on first reading the ordinance establishing the Southfork Redevelopment District.

2. E-Citation Program.

RECOMMENDED ACTION: Approve contract negotiations with Brazos Technologies to provide e-Citation hardware and software services which will be reviewed and approved as to form by the Law Department, approve the funding sources for the project, and authorize any necessary budget adjustments.

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## **COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

### **PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

#### **V. NON-CONSENT PLANNING AGENDA**

1. DER2012-00002 – Authorize the Metropolitan Area Planning Department to initiate an amendment to Article III, Section III-D.6.f.(1) of the Wichita-Sedgwick County Unified Zoning Code modifying the distance when Conditional Use approval is required for a “car wash.”

RECOMMENDED ACTION: Authorize the MAPD to initiate an appropriate text amendment to the UZC to address processes and development standards related to zoning and/or Conditional Use approval of a commercial “car wash.”

### **HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

#### **VI. NON-CONSENT HOUSING AGENDA**

None

### **AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

#### **VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

1. Approval of travel expenses for Mayor Carl Brewer to attend League of Kansas Municipalities Governing Body Meeting in Topeka, KS, April 23, 2012.

RECOMMENDED ACTION: Approve the expenditures

**IX. COUNCIL MEMBER APPOINTMENTS**

1. Board Appointments.

RECOMMENDED ACTION: Approve the Appointments.

Adjournment

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(ATTACHMENT 1 – CONSENT AGENDA ITEMS 1 THROUGH 19)

**II. CITY COUNCIL CONSENT AGENDA ITEMS**

1. Report of Board of Bids and Contracts dated April 9, 2012.

RECOMMENDED ACTION: Receive and file report; approve Contracts;  
authorize necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renewal</u>	<u>2012</u>	<u>(Consumption on Premises)</u>
Hideo L Hagen	Tsubasa**	8113 East Kellogg Suite 300
Miguel Reyes	Rostizeria Los Reyes**	512 West 21st
Steve Roberts	Godfather's Pizza, Inc. **	4840 South Broadway

\*\*General/Restaurant 50% or more gross revenue from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

3. Preliminary Estimates:

RECOMMENDED ACTION: Receive and file.

4. Consideration of Street Closures/Uses.

- Community Events - Victory in the Valley 21st Annual East Meets West Walk/Run. (District VI)
- Community Events - Ballet Wichita 5K. (Districts I, IV and VI)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

5. Minutes of Advisory Boards/Commissions

Joint Investment Committee, February 2, 2012  
Design Council, March 21, 2012

RECOMMENDED ACTION: Receive and file.

6. Sale of City Property in the 2200 Block of North Erie. (District I)

RECOMMENDED ACTION: Approve the Real Estate Purchase Agreement and authorize all necessary signatures.

7. Eminent Domain Professional Legal Services.

RECOMMENDED ACTION: Authorize the Mayor to sign the contract for Legal Services.

8. Contracts and Agreements for March 2012.

RECOMMENDED ACTION: Receive and file.

9. Water and Sewer Utility Revenue Bond Sale, Series 2012A.

RECOMMENDED ACTION: Adopt the resolution: 1) authorizing the sale of Water and Sewer Utility Revenue Bonds; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form “deemed final” as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1) of the Securities Exchange Commission; 4) authorizing distribution of the Notice of Sale; and 5) authorizing City staff, in consultation with Bond Counsel to take such further action reasonably required to implement this resolution.

10. Municipality Resolution to Obtain Credit Card Account.

RECOMMENDED ACTION: Approve the amended resolution as written establishing the credit card account.

11. Reintegration of Ex-Offenders Training and Service-Learning Grant Application.

RECOMMENDED ACTION: Approve submission of the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application and authorize the necessary signatures.

12. Emergency Change Order, Douglas Block Parking Garage. (District I)

RECOMMENDED ACTION: Approve Change Order No. 5 and authorize the necessary signatures.

13. Second Reading Ordinances: (First Read April 3, 2012)  
List of Second Reading Ordinances.

RECOMMENDED ACTION: Adopt the Ordinances.



## **II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

14. \*ZON2012-00005 – City zone change from SF-5 Single-Family Residential (“SF-5”) and Limited Commercial (“LC”) to GC General Commercial (“GC”) with Protective Overlay (“PO”) #267, generally located between Kellogg Street/US 54 and I-35 and west of 127th Street East. (District II)

RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of Protective Overlay PO #267 and subject to the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council (simple majority required).

15. \*SUB2008-00024 -- Plat of Glenview Addition located west of Greenwich and south of 21st Street North. (District II)

RECOMMENDED ACTION: Approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

16. \*VAC2011-00032 - Request to vacate a portion of platted complete access control and portions of platted easements, generally located midway between McLean Boulevard and Seneca Street on the northeast side of Lincoln and Osage Streets. (District IV)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

17. \*VAC2011-00034 - Request to vacate a portion of a platted drainage easement, generally located south of 53rd Street North and west of Hillside Avenue. (District I)

RECOMMENDED ACTION: Approve the Vacation Order, and authorize the necessary signatures.

18. \*VAC2012-00004 – Request to vacate a portion of platted complete access control on property generally located west of Maize Road, on the north side of 21st Street North. (District V)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

19. \*DED2012-00002 Utility Easement Dedication and DED2012-00003 Utility Easement Dedication located on the southwest corner of 21st Street North and Maize Road. (District V)

RECOMMENDED ACTION: Accept the Dedications.

## **II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**Fern Griffith, Housing Member is also seated with the City Council.**

None

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

None

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing on the Establishment of the Southfork Redevelopment District (Tax Increment Financing) (District III)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendation:** Close the public hearing and place the ordinance on first reading.

**Background:** On December 6, 2011, the City Council held a public hearing on the establishment of the Southfork Redevelopment District for the purpose of providing tax increment financing (TIF) to fund eligible site improvements related to the development of the area near the intersection of 47<sup>th</sup> Street South and I-35 and an adjacent 22 acres at Broadway and Custy. On December 13, 2011, the City Council adopted an ordinance establishing the redevelopment district.

On February 7, 2012, the City Council rescinded the ordinance establishing the TIF district in response to a letter from the Sedgwick County Clerk, on behalf of the Board of Commissioners of Sedgwick County, finding that the District would have an adverse effect on Sedgwick County. The Board of County Commissioners raised concerns that not all of the development property would be removed from the 100-year flood plain and no process was identified for limiting the amount of or redistribution of excess TIF revenue.

Since then, the City and Developer have worked to address the issues raised by the County, which has resulted in a plan to raise the development property above the 100-year flood plain and sets a not to exceed amount of \$16,500,000 for TIF revenues used to pay for eligible costs.

On March 6, 2012, the City Council adopted a resolution stating its intent to consider the establishment the Southfork Redevelopment District, to include the additional provisions. The resolution set 9:30 a.m. on April 10, 2012, or as soon thereafter as possible, as the time for a public hearing before the City Council on this matter. Copies of the resolution were mailed, by certified mail, to all owners and occupants of property in the proposed district, and to the Board of Sedgwick County Commissioners and the U.S.D. 259 Board of Education, in accordance with state law.

**Analysis:** The area proposed for the Southfork Redevelopment District is depicted on Exhibit 1 to the attached District Plan. The majority of the area is a 50-acre site located southwest of 47<sup>th</sup> and I-135, between I-135 and the Riverside Drainage Canal, also known as the Big Slough. In addition, the proposed district includes 22 acres of land located west of the Big Slough, north of Custy Street with frontage on Broadway. This area qualifies as a “blighted area” under the state TIF statutes, because a majority of the land within the proposed TIF district is within a 100 year flood plain, based on a report by the Developer’s project engineer using FEMA floodplain maps.

Southfork Investment LLC purchased the property and worked closely with the City and the State for the improvements to the I-135 and 47<sup>th</sup> Street South interchange. The developer is proposing to pay for a portion

of improvements to the box culvert under the Kansas Turnpike and perform additional work to remove the property and several residences in the area from the 100 year flood plain. The developer plans to create a mixed use development of over 1,000,000 square feet of retail, hotel, restaurants and office space on the initial 50 acres, as well as a medical complex on the 22 acres west of the Big Slough. Tax increment financing will be used on a pay-as-you-go basis to reimburse eligible redevelopment costs for infrastructure improvements that are financed with special assessments.

The process for authorizing the use of TIF involves two major steps: The first step is the establishment of the tax increment district by ordinance adopted by majority vote of the City Council, following a public hearing. The ordinance must include a district plan which provides a general description of the overall plan for redevelopment of the district. The creation of the district sets the boundaries within which TIF can be used and establishes the base year for measuring incremental growth in property tax revenue.

The second step in the approval process involves the adoption of a detailed project plan, by a two-thirds majority vote of the City Council, and approval of a development agreement between the City and the Developer which specifies the details of the private development to be undertaken and obligates the City to contribute to the project using TIF and any other incentives which may be included in the project. More than one redevelopment project may be approved by adoption of project plans within the same TIF district.

Tax increment financing allows the increased tax revenue resulting from the redevelopment of property in a redevelopment district to be used to pay for eligible costs in the redevelopment project, including land acquisition, site preparation and infrastructure. Once a TIF district is established and a redevelopment project plan is adopted by the City Council, the increment of increased tax revenue is set aside by the County Treasurer and forwarded to the City to pay for eligible project costs that are specified in the redevelopment project plan.

The TIF statute allows for projects to be financed with bonds that are repaid over time with the incremental tax revenue, or on a pay-as-you-go basis in which the developer is reimbursed for eligible costs over time as TIF revenue is received. After all the eligible costs have been paid, or the City has reimbursed the maximum amount approved, the property tax increment will be terminated and all tax revenue is distributed to the City, County, School District and other applicable taxing jurisdictions.

Southfork District Plan: The overall plan for redeveloping the Southfork Redevelopment District is set forth in the attached District Plan. The plan calls for development of the district in multiple phases, with each phase having a separate project area and project plan which must be adopted by the City Council by a 2/3 majority vote. The land uses for the overall project include retail, restaurant, hotel, healthcare and office developments. The current master plan for redevelopment of the proposed district is included as Exhibit '2' to the attached District Plan. The plan will require that each development phase raise the property within the development area out of the 100-year flood plain. The plan also limits the amount of TIF revenues used to pay for eligible costs to not exceed \$16,500,000, including bond interest. The use of tax increment financing includes reimbursement of TIF-eligible costs, including site preparation and infrastructure improvements, on a pay-as-you-go basis.

Pay-as-you-go TIF and Special Assessments: Southfork Investment LLC proposes to combine pay-as-you-go TIF with special assessment financing for those redevelopment costs that are eligible for both forms of financing. No City TIF bonds will be issued. TIF-eligible public improvements will be financed with general obligation (GO) special assessment bonds, following all standard procedures including petitions and deposits of letters of credit pursuant to administrative regulations. When the improvements are completed for each phase, the City will issue general obligation special assessment bonds and file assessments against the property in the TIF district, which will place a tax lien on the property. Pay-as-you-go TIF revenue will be used to reimburse the developer on an annual basis with proof of payment of the specials. The developer

will be responsible for paying the specials each year, regardless of whether the TIF generates enough revenue. The City is also left in the first position for reimbursement if the owner does not pay the taxes and the property is sold in tax foreclosure.

**Financial Considerations:** TIF financial obligations of the City will only be incurred following the approval of a project plan and development agreement for the first phase of the redevelopment project. The cost of improvements being financed in each phase will be limited to the amount that can be covered by projected TIF revenue. Subsequent phases will not be allowed to commence until sufficient development is assured in the prior phase, as set forth in the development agreement.

While use of pay-as-you-go TIF does not create any financial risk for the City, the use of special assessment financing does. Special assessment GO bonds must be repaid whether or not the special assessments are paid by property owners. Letters of credit required by the City for special assessment projects provide partial protection against non-payment of specials until 35% of the private development is completed. The remaining risk will be mitigated by personal guarantees required from the developers as part of the development agreement.

**Goal Impact:** Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted areas, distressed and declining areas, are needed to avoid economic stagnation.

**Legal Considerations:** State law allows cities to establish redevelopment districts in areas that are considered blighted areas based on findings that a majority of the land is within a 100 year flood plain. Such findings are set forth in the attached ordinance which has been approved as to form by the Law Department. Following the public hearing, the Sedgwick County Board of County Commissioners and the USD 259 Board of Education will have a 30-day period during which either board may veto the establishment of the redevelopment district.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing and place on first reading the ordinance establishing the Southfork Redevelopment District.

**Attachments:** Ordinance and Exhibits  
District Plan and Exhibits

**PUBLISHED IN THE WICHITA EAGLE ON APRIL 20, 2012**

Ordinance No. 49-260

**AN ORDINANCE OF THE CITY OF WICHITA  
ESTABLISHING THE SOUTHFORK REDEVELOPMENT DISTRICT**

WHEREAS, the provisions of K.S.A. 12-1771, as amended, set forth the procedure for the establishment of a redevelopment district for certain purposes in eligible areas; and

WHEREAS, the Governing Body of the City of Wichita, by Resolution No. R 12-049 dated March 6, 2012, has given notice of its consideration of the establishment of a redevelopment district and described a proposed district plan that identifies all of the proposed redevelopment project areas along with a general description of the buildings and facilities to be constructed or improved; and

WHEREAS, the Southfork Redevelopment District area appears to qualify as an eligible area as a “blighted area” under the provisions of K.S.A. 12-1770a, as amended, in that a majority of the property in the proposed district has been identified by a Kansas licensed professional engineer and the United States federal emergency management agency as existing in the 100-year flood-plain; and

WHEREAS, the Governing Body of the City of Wichita, finds and determines that the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of the City; and

WHEREAS, a public hearing required by K.S.A. 12-1771, as amended has been held and concluded; and

WHEREAS, the Governing Body of the City of Wichita desires to establish a redevelopment district that encompasses the Southfork Redevelopment District area;

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS:**

Section 1. The Governing Body hereby finds and determines that the Southfork Redevelopment District area qualifies as an eligible area as a “blighted area” under the provisions of K.S.A. 12-1770a, as amended, in that a majority of the property in the proposed district has been identified by a Kansas licensed professional engineer and the United States federal emergency management agency as existing in the 100-year flood-plain.

Section 2. The conservation, development or redevelopment of the District is necessary to promote the general and economic welfare of the city. Therefore, a redevelopment district is hereby established that shall hereafter be designated the Southfork Redevelopment District, the description and boundaries of such

redevelopment district in the City of Wichita, Sedgwick County, Kansas, are set forth in Exhibit "A" attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the Southfork Redevelopment District is attached hereto as Exhibit "B" and incorporated herein by reference.

Section 3. The redevelopment district plan identifying all the proposed redevelopment project areas along with a general description of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area is adopted as the redevelopment district plan for the Southfork Redevelopment District, and is set forth in Exhibit "C" attached hereto and incorporated herein by reference.

Section 4. This ordinance shall be in force and effect from and after its passage, approval, and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 17th day of April, 2012.

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

\_\_\_\_\_  
Carl Brewer, Mayor

Approved as to Form:

\_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

## EXHIBIT A

### LEGAL DESCRIPTION

A tract of land being located in Sections 21 and 28, Township 28 South, Range 1 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 21; thence S89°31'13"E, on an assumed bearing for a distance of 1626.43 feet to the point of intersection with the East line of the Riverside Drainage District Easement as recorded in Deed Book 432 at Page 162; thence S6°12'07"E along the East line of said Riverside Drainage District Easement for a distance of 156.28 feet to the Point of Beginning, said point being 155.50 feet South of the North line of the NW 1/4; thence N89°31'13"E parallel with the North line of said NW 1/4 for a distance of 653.73 feet to a point; thence S19°28'47"E for a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way as described in the deed, Book 1351, Page 253; thence S6°26'53"E for a distance of 129.68 feet; thence S19°28'47"E, for a distance of 1465.35 feet to a point on the right-of-way line of the Kansas Turnpike Authority as described in Condemnation Case A-55279; thence along said Kansas Turnpike Authority right-of-way line S8°42'58"W for a distance of 579.10 feet to a point on the South line of the NE 1/4 of Section 21, Township 28 South, Range 1 East; thence S88°50'51"W along the South line of said NE 1/4 for a distance of 176.00 feet to the Southwest corner of said NE 1/4; thence S88°50'53"W along the South line of the NW 1/4 of Section 21, Township 28 South, Range 1 East for a distance of 792.71 feet to a point on the East line of the Riverside Drainage Easement as recorded in Deed Book 432 at Page 162; thence South on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line of the Northwest Quarter Section of said Section 28; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East right-of-way line of the Kansas Turnpike Authority; thence South on the East right-of-way line of said Kansas Turnpike Authority to a point of intersection with the West right-of-way line of said Riverside Drainage Canal Easement; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line the Northwest Quarter Section of said Section 28; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence North on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South right-of-way line of Custy Street; thence West on the said South line of Custy Street to the East right-of-way line of U.S. 81 (Broadway); thence South on the East right-of-way line of U.S.81 to a point of intersection with the South line of Colonial Heights, Wichita, Sedgwick County, Kansas; thence West at a perpendicular angle to a point of intersection with the West right-of-way line of said



U.S.81; thence North on the West right-of-way line of said U.S.81 to a point of intersection with the southerly most North line extended of KMart Plaza South, an Addition to Wichita, Sedgwick County, Kansas; thence East on the southerly most North line extended of said Kmart Plaza South to a point of intersection with the East right-of-way line of said U.S. 81; thence South on said East right-of-way line of U.S. 81 to a point of intersection with the South line of Florence Addition to Wichita, Sedgwick County, Kansas extended; thence East on the South line of Florence Addition extended to the Southwest corner of said Florence Addition; thence East on said South line of said Florence Addition to the Southeast corner of said Florence Addition, said Southeast corner also being a Southwest corner of Southglen 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas; thence East on a South line of said Southglen 3<sup>rd</sup> Addition extended to a point of intersection with the East right-of-way of said Riverside Drainage Canal Easement; thence North on said East right-of-way of said Riverside Drainage Canal Easement to the Point of Beginning.



## **EXHIBIT C**

### **REDEVELOPMENT DISTRICT PLAN FOR THE REDEVELOPMENT OF SOUTHFORK REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING**

**April 10, 2012**

#### **SECTION 1: PURPOSE**

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

#### **SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME**

Projects financed through tax increment financing typically involve the creation of an “increment” in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the “original valuation,” continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

#### **SECTION 3: DESCRIPTION OF THE DISTRICT BOUNDARIES**

The property within the proposed district is generally located southwest of the intersection of 47<sup>th</sup> Street South and I-135; it includes approximately 50 acres bounded between I-135 and a drainage canal and approximately 22 acres bounded by Broadway on the west and the drainage canal on the east, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The legal description of the proposed district is attached hereto and incorporated herein as Exhibit 1.

#### **SECTION 4: BUILDINGS AND FACILITIES**

The proposed district is located within the South Wichita/Haysville Area Plan. The Plan identifies and recommends a variety of land uses and infrastructure improvements to influence and guide the redevelopment of the area that is expected as a result of the infrastructure improvements to the I-135/47<sup>th</sup> Street interchange. The proposed redevelopment district is an area that meets the criteria for designation as a “blighted area” as defined by state law governing the establishment and financing of redevelopment districts. Property within a blighted area is legally eligible for establishment of a redevelopment district.

Under the state statutes (K.S.A. 12-1770, et. seq.) an “eligible area” for tax increment financing may include any area defined as a blighted area. The statutory definition of “blighted area” includes any area in which a majority of the property lies within the 100-year floodplain (KSA 12-1770(c)(3)). It has been determined that the majority of the proposed Project Area property lies within the 100-year floodplain following an engineer’s review of the flood plain map.

## **SECTION 5: REDEVELOPMENT AND PROJECT AREAS**

It is anticipated that all property within district will be redeveloped in multiple phases and each phase will be designated as a separate “project area” under a separate project plan, which must be adopted by the City Council by a 2/3 majority vote for each phase before the expenditure of any tax increment financing funds. The Phasing of the project areas is notionally depicted in Exhibit 2 attached hereto. The plans for redevelopment of the district generally call for development of all 72 acres into a mixed use development of approximately 4 outparcels along 47<sup>th</sup> street, approximately 1,000,000 square feet of retail space, a hotel and office space on the east side of the development and a medical park on the west 22 acres portion of the development. The project plans and development agreements for each phase shall require that all property in the project areas, excluding drainage structures, easements and reserves, will be raised above the 100-year flood plain.

Tax increment financing will be used on a pay-as-you-go basis to reimburse the cost of site preparation, as well as on public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used to pay for construction of any buildings owned by or leased to a private, nongovernmental entity. TIF revenues used to pay for eligible costs shall not exceed \$16,500,000 including interest on city bonds. Any tax increment revenue not needed to pay such costs, including reimbursement of past special assessments paid for such improvements, shall be used to retire outstanding bond debt in order to accelerate termination of the Redevelopment District.

## **SECTION 6: CONCLUSION**

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of Redevelopment Project Plans. Each Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. Each Project Plan must be reviewed by the Metropolitan Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

**EXHIBIT 1**  
**SOUTHFORK TIF LEGAL DESCRIPTION**

A tract of land being located in Sections 21 and 28, Township 28 South, Range 1 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest 1/4 of said Section 21; thence S89°31'13"E, on an assumed bearing for a distance of 1626.43 feet to the point of intersection with the East line of the Riverside Drainage District Easement as recorded in Deed Book 432 at Page 162; thence S6°12'07"E along the East line of said Riverside Drainage District Easement for a distance of 156.28 feet to the Point of Beginning, said point being 155.50 feet South of the North line of the NW 1/4; thence N89°31'13"E parallel with the North line of said NW 1/4 for a distance of 653.73 feet to a point; thence S19°28'47"E for a distance of 393.37 feet to a point on the Kansas Department of Transportation right-of-way as described in the deed, Book 1351, Page 253; thence S6°26'53"E for a distance of 129.68 feet; thence S19°28'47"E, for a distance of 1465.35 feet to a point on the right-of-way line of the Kansas Turnpike Authority as described in Condemnation Case A-55279; thence along said Kansas Turnpike Authority right-of-way line S8°42'58"W for a distance of 579.10 feet to a point on the South line of the NE 1/4 of Section 21, Township 28 South, Range 1 East; thence S88°50'51"W along the South line of said NE 1/4 for a distance of 176.00 feet to the Southwest corner of said NE 1/4; thence S88°50'53"W along the South line of the NW 1/4 of Section 21, Township 28 South, Range 1 East for a distance of 792.71 feet to a point on the East line of the Riverside Drainage Easement as recorded in Deed Book 432 at Page 162; thence South on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line of the Northwest Quarter Section of said Section 28; thence continuing Southeasterly on the East right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East right-of-way line of the Kansas Turnpike Authority; thence South on the East right-of-way line of said Kansas Turnpike Authority to a point of intersection with the West right-of-way line of said Riverside Drainage Canal Easement; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the East line the Northwest Quarter Section of said Section 28; thence Northwesterly on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South line of said Section 21; thence North on said West right-of-way line of said Riverside Drainage Canal Easement to a point of intersection with the South right-of-way line of Custy Street; thence West on the said South line of Custy Street to the East right-of-way line of U.S. 81 (Broadway); thence South on the East right-of-way line of U.S.81 to a point of intersection with the South line of Colonial Heights, Wichita, Sedgwick County, Kansas; thence West at a perpendicular angle to a point of intersection with the West right-of-way line of said U.S.81; thence North on the West right-of-way line of said U.S.81 to a point of intersection with the southerly most North line extended of KMart Plaza South, an Addition to Wichita, Sedgwick County, Kansas; thence East on the southerly most North line extended of said Kmart Plaza South to a point of intersection with the East right-of-way line of said U.S. 81; thence South on said East right-of-way line of U.S. 81 to a point of intersection with the South line of Florence Addition to Wichita, Sedgwick County, Kansas extended; thence East on the South line of Florence Addition extended to the Southwest corner of said Florence Addition; thence East on said South line of said Florence Addition to the Southeast corner of said Florence Addition, said Southeast corner also being a Southwest corner of Southglen 3<sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas; thence East on a South line of

said Southglen 3<sup>rd</sup> Addition extended to a point of intersection with the East right-of-way of said Riverside Drainage Canal Easement; thence North on said East right-of-way of said Riverside Drainage Canal Easement to the Point of Beginning.



# EXHIBIT 2



# MASTER SITE PLAN

**City of Wichita  
City Council Meeting  
April 10, 2012**

**TO:** Mayor and City Council

**SUBJECT:** E-Citation Program

**INITIATED BY:** Wichita Police Department, Information Technology and Municipal Court

**AGENDA:** New Business

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**Recommendation:** Approve contract negotiations with Brazos Technologies to provide e-Citation hardware and software services which will be reviewed and approved as to form by the Law Department, approve the funding sources for the project, and authorize any necessary budget adjustments.

**Background:** The Wichita Police Department and Wichita Municipal Court are working toward the implementation of automated citations. A City-wide Environmental Scan conducted by Wichita State University identified e-Citations as a cost-saving, innovative technology. The e-Citation Program would enhance the Department's Comprehensive Traffic Safety Plan. Electronic citations reduce the time officers spend on traffic stops, increase the safety of the officer and the motorists and allows officers to be available for calls for service.

Electronic citations also improve efficiency in Municipal Court by eliminating handwriting misinterpretations and data entry errors. The e-Citation program will enable the Wichita Municipal Court to adjudicate traffic violations and provide customer service to citizens in a more efficient manner.

**Analysis:** After securing funding for the e-Citation Program, a Request for Proposal was created and released in December, 2011. A staff screening and selection committee made up of representatives from Police, Law, Municipal Court, Public Works and Finance was formed. A total of five firms responded to the request for proposals. The solutions proposed by the respondents were evaluated by the committee.

The committee unanimously selected Brazos Technologies due to their established work history, their existing client base, and their reputation for providing quality customer service. Additionally, Brazos Technologies was selected for the police/court project due to their having previously worked with organizations using the E\*Justice records management system. It is felt that Brazos Technologies will provide the City the ability to succeed in the current project as well as future technology projects. Benefits of using e-Citations are; enhanced efficiency, productivity, officer/citizen safety, and increased accuracy. Contract negotiations with Brazos are underway.

**Financial Considerations:** The e-Citation project is estimated to cost \$504,300. The startup funding for the project will be split between the Police Department, Municipal Court and IT/IS. The three departments have collaborated and agreed on the following arrangement.

Police	2011 JAG Grant Funds	\$150,000
Municipal Court	Technology Project Fund	\$177,150
IT/IS	Software Replacement Fund	<u>\$177,150</u>
		\$504,300

The Police Department will contribute \$150,000 from the 2011 Federal Justice Assistance Grant. The Municipal Court's share will be funded from the Municipal Courts Computer System Project Fund. IT/IS will fund \$177,150 from the IT/IS Software Replacement Fund. The IT/IS contribution amount will be paid back through an annual transfer from the General Fund Operating Budget.



The pre-negotiation proposal provided by Brazos Technologies was \$458,405; with additional implementation costs, the cost of the proposal is estimated at \$504,300.

The annual license and maintenance fees will be recovered through IT charges. The proposed cost of the annual license and maintenance fees is \$51,300. The first year of licenses and maintenance fees is built into the initial bid. The ongoing annual license and maintenance fees of \$51,300 will start in year two. These costs will be recovered through IT charges to the Police Department.

**Goal Impact:** Under the City of Wichita's Safe and Secure Initiative, the e-Citation program will help to insure the police department can continue its emphasis on the Comprehensive Traffic Safety Plan through the use of technology to improve service. In addition, the e-Citation program will enable the Wichita Municipal Court to adjudicate traffic violations and provide customer service to citizens in a more efficient manner.

**Legal Considerations:** The contract negotiated with Brazos Technologies has been reviewed and approved to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve contract negotiations with Brazos Technologies to provide e-Citation hardware and software services which will be reviewed and approved as to form by the Law Department, approve the funding sources for the project, and authorize any necessary budget adjustments.

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** DER2012-00002 – Authorize the Metropolitan Area Planning Department to initiate an amendment to Article III, Section III-D.6.f. (1) of the *Wichita-Sedgwick County Unified Zoning Code* modifying the distance when Conditional Use approval is required for a “car wash.” (All Districts)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Non-Consent)

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**Staff Recommendation:** Authorize the Metropolitan Area Planning Department (MAPD) to initiate the amendment to the Unified Zoning Code.

**Background:** For the past several months staff has been researching an improved process to deal with noise complaints generated by the operation of commercial car washes. A staff committee comprised of representatives from the Office of Central Inspection, Law Department, Metropolitan Area Planning Department (MAPD) and Public Works recommended that a two pronged approach be considered: 1) create and adopt administrative guidelines that outline when decibel readings can be effectively used to enforce noise complaints; and 2) amend the Unified Zoning Code (UZC) to increase the distance surrounding a proposed car wash when Conditional Use review and approval is required. Currently the UZC requires Conditional Use approval for a car wash if the car wash is located within 200 feet of a residential zoning district (Article III, Section III-D.6.f.(1)). The committee recommended a text amendment to the UZC be considered that increases the distance when a Conditional Use is required; up to 500 feet.

This agenda item requests authorization from the City Council for the MAPD to prepare for future consideration an appropriate text amendment to the UZC to address processes and development standards related to zoning and/or Conditional Use approval of a commercial “car wash.”

**Analysis:** The authority to initiate a text amendment to the UZC rests with the governing body or the Metropolitan Area Planning Commission (Article V, Section C.1 and 2). If this request is approved, staff will prepare an amendment for consideration, at a later date, by the Planning Commission and the governing body. Text amendments to the UZC require public notice and public hearing, which would occur as part of the review process.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

**Goal Impact:** The application will promote Economic Vitality.

**Legal Considerations:** This request does not require legal review.

**Recommendation/Actions:** Authorize the MAPD to initiate an appropriate text amendment to the UZC to address processes and development standards related to zoning and/or Conditional Use approval of a commercial “car wash.”

**Attachments:** None

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Victory in the Valley 21<sup>st</sup> Annual East Meets West Run/Walk (District VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closure.

**Background:** In accordance with the Community Events procedure the event promoter Diana Thomi, Victory in the Valley, Inc. is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Victory in the Valley 21<sup>st</sup> Annual East Meets West Walk/Run May 19, 2012 7:30 am – 9:00 am**

- Second Street, Waco Street to McLean Boulevard

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Ballet Wichita 5K (Districts I, IV and VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Clark Enszt, Clark Enszt, Inc. is coordinating with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Ballet Wichita 5K June 23, 2012 7:00 am – 9:00 am**

- Douglas Avenue, Waco Street to Sycamore Street
- McLean Boulevard, Maple Street to First Street
- Sycamore Street, Texas Street to McLean Boulevard
- First Street, McLean Boulevard to Waco Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Goal Impact:** Enhance the Quality of Life for citizens through special events and activities.

**Legal Consideration:** There are no legal considerations.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

**CITY OF WICHITA**  
**City Council Meeting**  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Sale of City Property in the 2200 Block of North Erie (District I)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the sale.

**Background:** On August 5, 2008, the City Council declared the remnant land at Fire Station 10 as surplus property. The subject property was donated to the City in 2002 along with the land currently improved with Fire Station 10 located at 2950 East 21<sup>st</sup> Street North. The proposed remnant is fenced off from the Fire Station improvements and located within a residential area. The site contains an approximate 7,236 square feet and is zoned Single-Family.

**Analysis:** An offer of \$2,000 (\$0.27 per square foot) has been received. The buyer is the adjacent property owner. The adjacent property is improved with a church. The buyer intends to expand the church and provide services to the public. This use is similar to several others in the immediate area.

**Financial Considerations:** The City will receive cash consideration for the sale of the property. In addition, the sale of this property to a private party will relieve the City of any maintenance costs.

**Goal Impact:** The sale and redevelopment of this property will support Efficient Infrastructure by returning funds to the capital improvement funds and, Economic Vitality by promoting the redevelopment of a vacant site.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendation/Action:** It is recommended that the City Council approve the Real Estate Purchase Agreement and authorize all necessary signatures.

**Attachments:** Real Estate Purchase Agreement and aerial.



# 2200 Block N Erie



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Prepared By GeoSmart.net

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Eminent Domain Professional Legal Services

**INITIATED BY:** Department of Law

**AGENDA:** Consent

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**Recommendation:** Approve the agreement with Orrick & Erskine, L.L.P., Attorneys at Law, to provide eminent domain professional legal services.

**Background:** The City of Wichita acquires real property for a wide range of projects including highways and streets, public facilities, utility easements, etc. While all required property is attempted to be acquired through negotiation, occasionally agreement cannot be reached with the property owner or the property owner cannot provide clear title to the property. In these situations, the property must be acquired through the eminent domain process. Due to the time intensive nature of the eminent domain process, the specialized nature of the practice and current staffing levels, assistance is required to assist in completing necessary eminent domain actions in a timely manner.

**Analysis:** Proposals to provide eminent domain legal services were solicited from all law firms in Sedgwick County as well as firms elsewhere in the state that have expertise in this area. Proposals were submitted by three firms and were interviewed by a Staff Screening and Selection committee. Orrick & Erskine, L.L.P. Attorneys at Law was selected from among the proposals by the review committee based on qualifications, staffing levels and price. A contract has been negotiated with a term running from April 17, 2012 to March 31, 2013, with options to renew under the same terms and conditions for four successive one-year terms by mutual agreement of both parties.

**Financial Considerations:** The contract provides a fee schedule that reflects the fees regularly charged by comparable firms in the area for similar legal work and the commitment that the firm has made to have a representative available regularly for City matters. The costs of eminent domain legal services are charged to the projects for which real property is being acquired.

**Goal Impact:** This enhances the goal of Efficient Infrastructure by making possible the economical acquisition of right of way for public improvements.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendations/Actions:** It is recommended that the City Council authorize the Mayor to sign the Contract for Legal Services.

**Attachments:** Contract for Legal Services.

### CONTRACT FOR LEGAL SERVICES

THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the CITY OF WICHITA, KANSAS, a Municipal Corporation, hereinafter called "CITY", and "ORRICK & ERSKINE, L.L.P., Attorneys at Law, hereinafter referred to as "ATTORNEY".

WITNESSETH:

That in consideration of the sums to be paid by the CITY to the ATTORNEY as hereinafter provided, and in further consideration of the mutual promises, covenants and agreements of the parties, the CITY does hereby employ the ATTORNEY for services in connection with the acquisition of property rights, the exercise of its power of eminent domain and inverse condemnation litigation by the CITY and its agencies.

The ATTORNEY agrees to, and hereby does, accept such employment and agrees to do the work necessary to perform professional legal services for the CITY as described herein pursuant to the terms thereof.

#### TERM

The ATTORNEY agrees to commence such work the date this contract is executed, and agrees to execute the same with reasonable diligence until the \_\_\_\_\_ day of \_\_\_\_\_, 2013. Renewal of said Contract for continued legal services for a like twelve month period (the renewal period) will be at the discretion of the governing body of the City of Wichita upon terms to be mutually agreed upon by the parties hereto. If the parties are unable to agree upon the terms of engagement for the renewal period, then this Contract will terminate; ATTORNEY shall be paid in full for all services provided and expenses incurred to date of termination; and, ATTORNEY shall be relieved of all further duties and obligations with regard to any then pending litigation consistent with the Kansas Rules of Professional Conduct.

#### COMPENSATION

It is agreed that the ATTORNEY shall be compensated for its services on an hourly basis as set forth in Exhibit "A" which is attached and made a part of this Contract. Such rates shall be effective for all services provided on and after \_\_\_\_\_, 2012.

ATTORNEY shall also be reimbursed for their disbursements and advances for items such as expert witness fees and expenses, consultants' fees and expenses, reproduction of documents, shipping and postage, long distance telephone calls and similar costs as set out in Exhibit "B". Such rates shall be effective for all services provided on and after \_\_\_\_\_, 2012.



Statements for fees and itemized expenses shall be submitted on a monthly basis in accordance with ATTORNEY's standard billing practices and shall be paid within thirty days after receipt by the CITY.

ATTORNEY shall maintain a contemporaneous record of time billed, indicating a brief summary of description of the work performed. The statements submitted for services rendered under the terms of the Contract will reflect the time expended by ATTORNEY and describe the work performed.

#### ASSIGNMENT

This Contract may not be assigned, transferred, or in any way disposed of by ATTORNEY without first having obtained written approval from the City Manager or City Council of the CITY.

#### LIMITATIONS ON AUTHORITY

It is understood and agreed that because of the responsibilities of the City Attorney will appear on all documents and pleadings and ATTORNEY will file no pleadings and send no documents, applications, or opinions of any kind to any agency or entity on behalf of the CITY, and of its agencies or departments, without consultation with the City Attorney, unless specifically requested to do so by the City Council or City Manager. This Contract contains no authorization in any event for ATTORNEY to sign any papers or documents in the name of the City Attorney. Further, it is understood and agreed that ATTORNEY shall have no authority or incur any liability, cost or expense on the part of the CITY except as may be authorized by this Contract or specifically authorized in writing by the City Attorney.

#### SCOPE OF SERVICES TO BE PROVIDED

During the performance of the Contract, ATTORNEY shall agree to perform and shall be prepared to provide a broad range of professional services related to real property transactions, eminent domain and inverse condemnation litigation for the CITY or agencies thereof. The professional services performed by the ATTORNEY will be under the direction and control of the City Attorney. In some situations, the services provided will be done in association with in-house legal staff of the Department of Law. The professional services include, but are not limited to the following:

1. Research and general investigation into the potential for inverse condemnation suits against the CITY by the owner(s) of specific lands and aimed at assessing the likely range of recovery if such suits are successful;
2. Research and general investigation aimed at assessing the likely result of certain proposed eminent domain actions, i.e. establishing a range of potential awards;

3. Render advice, guidance and assistance when requested by the City Manager, City Attorney, Director of Property Management, Public Works Direction, City Engineer or their designees, relative to proposed projects;
4. Consulting with the City Attorney, CITY staff and other retained consultants regarding:
  - a. analysis of likely acquisition costs in connection with planned improvements and public improvements;
  - b. suggestions for changes to improvements and projects which will mitigate property acquisition costs and/or "taking" costs; and
  - c. recommendations to either purchase or acquire by eminent domain necessary property interests.
5. Draft and preparation of petitions and pleadings in eminent domain actions pursuant to K.S.A. 26-501, et seq.;
6. Prosecution to completion of eminent domain action under K.S.A. 26-501, et seq.;
7. Prosecution or defense of eminent domain appeals, including all necessary discovery, motion practice, trial preparation and trial, either to the court or a jury and appellate proceedings beyond the district court;
8. Defense of inverse condemnation actions, including appropriate discovery, motion practice, trial preparation, trial and appellate proceedings beyond the district court;
9. Any other research, consultation or court appearances as directed by the City Attorney and related to the CITY's acquisition or property or property rights and its powers of eminent domain;
10. Have available at all reasonable times a senior member of the firm for the purpose of providing the services described herein in a timely manner;
11. Avoid representation of other clients which cause or will result in conflicts of interest for ATTORNEY expect as otherwise provided hereinafter;
12. Upon request, attend City Council meetings when a matter involving a real estate transaction, condemnation or inverse condemnation is to be considered by the City Council.

#### CITY IS THE CLIENT

ATTORNEY represents that in providing professional services under this Contract that they represent solely and only the CITY's interests.

#### PROFESSIONAL LIABILITY INSURANCE

The ATTORNEY will maintain policies of professional liability insurance coverage, with a Certificate of Insurance or a copy of the policy to be provided to the CITY upon written request.

NON-DISCRIMINATION

ATTORNEY agrees to the terms and conditions as set forth in Exhibit "C", which is attached to and made part of this Contract.

TERMINATION OF CONTRACT FOR CAUSE

It is mutually agreed that the CITY reserves the right to terminate this Contract at any time, upon written notice, in the event of ATTORNEY's inability to perform the services or in the event the services of ATTORNEY are unsatisfactory; provided, that in such case the ATTORNEY will be paid the reasonable value of the services rendered up to the time of termination.

CONFLICTS

In the event a potential or actual conflict of interest issues arises between the CITY and any of the ATTORNEY's other clients or potential clients relating to services provided by ATTORNEY to such clients, ATTORNEY shall notify the City Attorney in writing and seek a waiver of the conflict of interest. The CITY agrees that ATTORNEY will not be required under this Contract or otherwise to represent the CITY in condemnation of land owned or otherwise occupied by ATTORNEY's other clients.

CITY OF WICHITA, KANSAS

\_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

ORRICK & ERSKINE, L.L.P.

\_\_\_\_\_  
By:

Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law

EXHIBIT "A"

Rate for Attorney (Partner/Members)	\$175.00/hr
Rate for Attorney (Associates and Of Counsel)	\$150.00/hr
Rate for Law Clerk	\$ 60.00/hr
Rate for Legal Assistant/Paralegal	\$ 85.00/hr
Rate for Staff Relocation and Acquisition Specialist	\$105.00/hr
Rate for Senior Staff Real Estate Specialist	\$ 95.00/hr
Rate for Junior Staff Real Estate Specialist	\$ 80.00/hr
Travel Rates (half of regular hourly rates)	½ of above*
Mileage (current state reimbursable amount)	\$ 0.51/mi

\*Travel Rates and Expenses will not apply for travel necessary in or around the Wichita Metro area.

EXHIBIT "B"

Actual Costs will be reimbursed for the following types of costs incurred when receipts and/or detailed statements are provided and charges are approved by the City:

- |   |                         |
|---|-------------------------|
| 1. In-house Photocopying                                    | None                    |
| 2. Outside Printing for large or non-standard copy projects | Actual expense incurred |
| 3. Facsimile Transmittals                                   | Actual expense incurred |
| 4. Long Distance Telephone Expense                          | Actual expense incurred |
| 5. Postage & Shipping Expenses                              | Actual expense incurred |
| 6. Overnight Delivery Publication Expenses                  | Actual expense incurred |
| 7. Recording/Filing Fees                                    | Actual expense incurred |
| 8. State Agency Fees  | Actual expense incurred |
| 9. Travel Expenses:   |                         |
| a. Mileage  | Current IRS rates       |
| b. Tolls/Parking  | Actual expense incurred |
| c. Taxis/Other Ground Transportation                        | Actual expense incurred |
| d. Meals/Lodging  | Actual expense incurred |
| 10. Court Reporting   | Actual expense incurred |
| 11. Transcription Fees                                      | Actual expense incurred |
| 12. Reproductions/Outside Reproductions                     | Actual expense incurred |
| 13. Exhibit Preparation by Outside Providers                | Actual expense incurred |

EXHIBIT "C"

REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination—Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated hereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, Vietnam Era Veteran or Special disabled Veteran and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency.
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Exempted from these requirements are: (State of Kansas)
  - 1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds.
  - 2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.

3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.
- D. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination – Equal Opportunity/Affirmative Action Program Requirements.
1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq.) of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination – Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation.
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, “disability, Vietnam Era Veteran or Special Disabled Veteran and age except where age is a bona fide occupational qualification”, national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, “Equal Opportunity Employer”, or a similar phrase that is deemed acceptable to the City of Wichita;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations, and will permit access to books, records and procedures concerning employment relations by and for the purpose of investigation to ascertain compliance with Non-Discrimination – Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City of Wichita in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor, supplier, contractor or subcontractor;
  4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination -- Equal Employment Opportunity under a decision or order of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be canceled, terminated or suspended in whole or in part by the City of Wichita, and such other sanctions and remedies may be imposed as provided by law;

5. The vendor, supplier, contractor or subcontractor shall include every provision of Subsection 1 through 4 inclusive, of this present section in every subcontract, sub-purchase order or sub-agreement so that such provisions will be binding upon each subcontractor, sub-vendor or sub-supplier.
- E. Exempted from these requirements are: (City of Wichita)
1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement shall prior to entering into such contract, purchase order or agreement, submit to the City of Wichita, Kansas, a preliminary report on forms provided by the Board, concerning Non-Discrimination – Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:
    - a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City, are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
    - b. These provisions shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) days period from the Federal agency involved.
    - c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instruction included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.
- F. Failure of any contractor, subcontractor, vendor or supplier to report to the "Kansas Human Rights Commission" as required by K.S.A. 44-1031, as amended, or has been found guilty of a violation of the City's Ordinances, State Statutes, or Federal Statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be canceled, terminated or suspended in whole or in part by the City or its contracting agency.



**CONTRACTS & AGREEMENTS  
BLANKET PURCHASE ORDERS RENEWAL OPTIONS  
MARCH 2012**

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Background Investigations	3/31/2013	American Databank LLC	Various	4/5/2011 - 3/31/2012	1 - 1 year option
Bauer Breathing Air Compressors, Charging Stations and Air Quality Testing Services (Service & Maintenance)	3/31/2013	Breathing Air Services, Inc.	Fire	3/10/2010 - 3/10/2011	Last option
Brooms, Elgin Main & Gutter for Street Sweepers	3/31/2012	Old Dominion Brush Company	Public Works & Utilities	4/1/2011 - 3/31/2012	2 - 1 year options
Carpet, Installation and Repair	3/31/2012	Sherwin Williams Company	Housing & Community Services	4/5/2011 - 3/31/2012	2 - 1 year options
Furniture, Herman Miller Office Systems	3/31/2013	John A. Marshall Co.	Finance	6/12/2003 - 6/11/2006	Annual basis
Guard Service for the Wichita Intervention Program	3/31/2013	Smart Security and Investigations, Inc.	Municipal Court	3/24/2009 - 3/23/2010	1 - 1 year option
Health Fair Biometric Screenings	3/31/2013	Via Christi Occupational Health and Wellness	Finance	4/8/2011 - 4/7/2012	3 - 1 year options
Intervention Program Facility (Wichita)	3/31/2013	BWAC, LLC dba Best Western Airport Inn and Conference Center	Municipal Court	4/7/2009 - 3/31/2010	1 - 1 year option
Janitorial Services for Greenway Manor, McLean Manor, Rosa Gragg Clubhouse and Bemice Hutcherson Clubhouse	3/31/2013	Steam Supreme Carpet and Upholstery Cleaning	Housing & Community Services	4/5/2011 - 3/31/2012	1 - 1 year option
Landscape Maintenance - Murfin Animal Care Campus	3/31/2013	Complete Landscaping Systems, Inc.	Police	4/14/2011 - 3/31/2012	1 - 1 year option
Medical Bill Review Services	3/31/2013	CorVel Corporation	Finance	4/1/2008 - 3/31/2009	Last option
Mow, Edge & Trim Fire Training Academy	3/31/2013	Dragonfly Lawn Service	Fire	4/25/2011 - 3/31/2012	1 - 1 year option
Mow, Edge & Trim Scattered Sites & Residential Lots	3/31/2013	Two Friends For All Seasons Lawncare	Housing & Community Services	4/1/2011 - 3/31/2012	1 - 1 year option
Mow, Edge and Trim at Police Department Airport Air Section Jabara Airport - Group 2	3/31/2013	Complete Landscaping Systems, Inc.	Police	4/5/2011 - 3/31/2012	1 - 1 year option
Mowing - Private Lot	3/31/2013	T&G Mowing & Excavating, Inc.	Central Inspection	4/1/2011 - 3/31/2012	1 - 1 year option
Mowing, Trimming, Edging & Maintenance at Environmental Services - Group 1 (1900 E. 9th)	3/31/2013	Michael's Complete Lawn Care, Inc.	Public Works & Utilities	3/24/2011 - 3/31/2012	1 - 1 year option
Mow, Trim, Edging & Maintenance for Tri-State Central property located at 724 E. Osie - Group 2	3/31/2013	Complete Landscaping Systems, Inc.	Public Works & Utilities	3/24/2011 - 3/31/2012	1 - 1 year option
MRI (Magnetic Resonance Imaging Services)	3/31/2013	Heartland Open MRI, LLC dba AMI Allied Medical Imaging	Finance	4/1/2008 - 3/31/2009	Last option
NPDES Storm Event Sampling (Providing)	3/31/2013	Integrated Solutions Inc. DBA ISI Environmental Services (ISI)	Public Works & Utilities	4/1/2009 - 3/31/2011	1 - 1 year option
Paint - Exterior and Interior	3/31/2013	PPG Architectural Finishes, Inc. DBA Porter Paint	Public Works & Utilities	8/1/2009-3/31/2010	1 - 1 year option
Paper Shredding - Security	3/31/2013	Cintas Corporation	Various	4/1/2009 - 3/31/2010	1 - 1 year option
Public Arts Maintenance Project	3/31/2013	Gotta Corporation	City Manager	4/21/2009 - 3/31/2010	1 - 1 year option
Rags, Wiping	3/31/2013	Champ Wiping Rag Co., Inc.	Various	4/1/2010 - 3/31/2011	Last option
Security Services - Downtown Transit Center	3/31/2013	Vend-Tech Enterprise LLC	Wichita Transit	4/1/2010 - 3/31/2011	Last option
Telecommunications System	3/31/2013	Comm Link, Inc.	Airport	3/31/2005 - 3/30/2010	Last extension
Temporary/Seasonal Workers Professional Services	3/31/2013	Syndeo Staffing	Human Resources	4/1/2011 - 3/31/2012	3 - 1 year options
Vehicle Washes (Brush and Brushless)	3/31/2012	The Pantry Inc.	Various	1/1/2004 - 2/28/2005	Annual basis

**PROFESSIONAL CONTRACTS UNDER \$25,000  
MARCH 2012**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		

**ANNUAL MAINTENANCE CONTRACTS OVER \$25,000  
DIRECT PURCHASE ORDERS FOR MARCH 2012**

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT		
SEN Inc.	DP240243	Software Maintenance/Support	\$111,466.09		

**City of Wichita  
City Council Meeting  
April 10, 2012**

**TO:** Mayor and City Council

**SUBJECT:** Water and Sewer Utility Revenue Bonds, Series 2012A

**INITIATED BY:** Department of Finance

**AGENDA:** Consent

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**Recommendation:** Adopt the resolution.

**Background:** As Water and Sewer CIP projects have been initiated, the City Council has adopted resolutions authorizing various system improvements and the issuance of revenue bonds. Additionally, notices of the Council's intent to carry out the improvements and issue the revenue bonds have been published in the City's official newspaper. The notice of the City's intent to issue revenue bonds has also been published in the City's official newspaper.

**Analysis:** The Water Utilities have been drawing down cash reserves, in anticipation of the issuance of revenue bonds, in order to fund the costs of improvement projects that were previously authorized for bond financing. The Water Utilities wish to proceed with the sale of tax-exempt revenue bonds (Series 2012A) at this time, in the approximate principal amount of \$17,710,000 to permanently finance a portion of project costs incurred to date and reimburse prior cash reserve expenditures, and to provide funding of bond reserve requirements and financing costs.

The public sale of the bonds is scheduled for 10:00 a.m. CT on May 1, 2012 at which time the bids will be opened and the City Council will award the sale of bonds, subject to approval of the final sizing terms of the bonds by the City Manager, to the bidder whose proposed interest rates result in the lowest overall cost to the City.

**Financial Considerations:** The proceeds from the proposed bond sale will reimburse and pay project expenses, provide funding of the required bond reserve and other financing costs. The debt service payments associated with the bonds will be funded entirely from net revenues derived from operations of the City's Water Utilities. The Series 2012A bonds are being financed over 20 years with principal maturities structured to produce level annual payments of principal and interest and the bonds maturing October 1, 2021, and thereafter, may be called for redemption and payment prior to their respective maturities on and after October 1, 2020, at par.

The City of Wichita awards the sale of bonds to the bidder with the lowest true interest cost, or "TIC". The TIC is the rate that will discount all future cash payments so that the sum of the present value will equal the bond proceeds. Further, using the TIC calculation can potentially result in the City saving money because the TIC does not ignore the timing of interest payments.

**Goal Impact:** This item impacts the Economic Vitality/Affordable Living and Internal Perspective Goals through the permanent financing of capital improvements and offering the City's debt obligations through competitive sale.

**Legal Considerations:** The Law Department has approved the Resolution as to form, authorizing the sale of the bonds and directing the distribution of the Official Notice of Sale, as prepared by the City's Bond Counsel.

**Recommendations/Actions:** It is recommended that the City Council adopt the resolution: 1) authorizing the sale of Water and Sewer Utility Revenue Bonds; 2) approving the distribution to prospective bidders of the Preliminary Official Statement, subject to such minor revisions as may be determined necessary by the Director of Finance and Bond Counsel; 3) finding that such Preliminary Official Statement is in a form "deemed final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1) of the Securities Exchange Commission; 4) authorizing distribution of the Notice of Sale; and 5) authorizing City staff, in consultation with Bond Counsel to take such further action reasonably required to implement this resolution.

**Attachments:** Sale Resolution  
Official Notice of Sale

## RESOLUTION NO. 12-077

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING THE PUBLIC SALE OF APPROXIMATELY \$17,710,000 PRINCIPAL AMOUNT OF WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2012A.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

**Section 1.** The following bonds (the “Bonds”) of the City of Wichita, Kansas (the “City”), shall be offered at competitive public sale on May 1, 2012, at 10:00 a.m., Central Daylight Saving Time or at such other time and date approved by the Mayor that is the date of a City Council meeting:

Name of Obligation	Series	Approximate Principal Amount
Water and Sewer Utility Revenue Bonds	2012A	\$17,710,000

**Section 2.** Bids for the purchase of the Bonds shall be accepted through the *PARITY* Electronic Bid Submission System until 10:00 a.m., Central Daylight Saving Time, and will at such time be read aloud and tabulated by City staff. The bids will be considered and the Bonds will be awarded to the best bidder by the Governing Body at their earliest convenience following the deadline for receipt of the bids.

**Section 3.** The City’s Bond Counsel, Kutak Rock LLP, in conjunction with City staff, are authorized to prepare a notice of sale and preliminary official statement in connection with the offering of the Bonds (the “Notice of Sale and Preliminary Official Statement”) and appropriate officers of the City are authorized to provide the original purchaser of the Bonds with a certification to the effect that the City deems the information contained in the Preliminary Official Statement “final” as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1) of the Securities Exchange Commission, and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable such original purchasers to comply with the requirement of such Rule.

**Section 4.** City staff is authorized and directed to give notice of the sale of the Bonds by making copies of the Notice of Bond Sale and Preliminary Official Statement available to prospective purchasers of the Bonds.

**Section 5.** City staff, in consultation with Bond Counsel, is hereby authorized to take such further action reasonably required to implement this Resolution.

**Section 6.** This Resolution shall be in full force and effect from and after its adoption.

**ADOPTED AND APPROVED** by the Governing Body of the City of Wichita, Kansas,  
on April 10, 2012.

(Seal)

\_\_\_\_\_  
Carl Brewer, Mayor

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

# **CITY OF WICHITA, KANSAS OFFICIAL NOTICE OF SALE**

## **\$17,710,000\* WATER AND SEWER UTILITY REVENUE BONDS SERIES 2012A**

### **Date, Time and Place of Receiving Bids**

Bids will be received by the Director of Finance on behalf of the Governing Body of the City of Wichita, Kansas (the “City”), for the purchase of \$17,710,000\* principal amount of Water and Sewer Utility Revenue Bonds, Series 2012A (the “Bonds”), through PARITY electronic bid submission system (“PARITY”), until 10:00 a.m. on:

**TUESDAY, MAY 1, 2012** (the “Sale Date”)

All bids shall be publicly read and tabulated on the date and at the time above indicated and all bids and the tabulations thereof shall thereafter be presented to the Governing Body of the City at their earliest convenience in the Council Chamber at City Hall. The Governing Body will thereupon award the Bonds to the best bidder. No oral or auction bid for the Bonds shall be considered, and no bid for less than the entire principal amount of the Bonds shall be considered. All references to time in this Notice shall mean Central Daylight Saving Time.

### **Description of Bonds**

The Bonds shall be issued in the aggregate principal amount set forth above, shall bear a Dated Date of May 1, 2012, shall be issued in book-entry-only form, and individual purchases may be made in denominations of \$5,000 or integral multiples thereof. The Bonds shall mature on October 1 in the years and principal amounts as follows:

<b>Maturing October 1</b>	<b>Principal Amount*</b>	<b>Maturing October 1</b>	<b>Principal Amount*</b>
2013	\$740,000	2023	\$ 865,000
2014	745,000	2024	885,000
2015	750,000	2025	915,000
2016	755,000	2026	940,000
2017	765,000	2027	970,000
2018	775,000	2028	1,000,000
2019	790,000	2029	1,035,000
2020	805,000	2030	1,070,000
2021	820,000	2031	1,105,000
2022	840,000	2032	1,140,000

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\*Subject to change

The Bonds shall bear interest at the rates specified by the successful bidder, and interest shall be payable semiannually on April 1 and October 1 of each year, commencing October 1, 2012.

*Principal Amounts Subject to Change.* The City reserves the right to increase or decrease the total principal amount of the issue and the principal amount of any maturity in order to properly size the Bond issue, including adjustments based on net bond proceeds received by the City as a result of any premium bid. Adjustments, if required, will be made proportionately to each maturity as permitted by the authorized denominations of the Bonds. The successful bidder may not withdraw its bid or change the interest rates bid as a result of any changes made to the principal amount of the Bonds as described. If there is an adjustment in the final aggregate principal amount of the Bonds or the schedule of principal payments as described above, any premium bid on such Bonds will be proportionately adjusted. At the request of the City, each successful bidder agrees to resize the Bond issue, adjust the premium and provide a revised maturity schedule to the City promptly after receipt of notification of such a request by the City.

## **Redemption of Bonds**

*Optional Redemption.* The Bonds maturing in the years 2013 through 2020, inclusive, shall become due on their respective maturities without the option of prior payment. At the option of the City, the Bonds maturing October 1, 2021, and thereafter, may be called for redemption and payment prior to their respective maturities on and after October 1, 2020. Bonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid, at a redemption price of 100% of the principal amount, plus accrued interest to the date established for redemption and payment.

*Mandatory Redemption.* A bidder may elect to have all or a portion of the Bonds scheduled to mature in consecutive years issued as term bonds (the "Term Bonds") scheduled to mature in the latest of those consecutive years and subject to mandatory redemption requirements consistent with the schedule of serial maturities set forth herein, subject to the following conditions: (a) not less than all Bonds of the same serial maturity shall be converted to Term Bonds with mandatory redemption requirements, (b) callable and noncallable serial maturities of the Bonds may not be combined in the same Term Bond maturity, and (c) a bidder must indicate the Term Bond election on the bid submitted.

*General Redemption Provisions.* If less than all of the outstanding Bonds are called for redemption on a specified date, the method of selection of the Bonds to be so called shall be designated by the City in such equitable manner as it may determine. In the case of Bonds registered in denominations greater than \$5,000, the City shall treat each \$5,000 of face value as though it were a separate Bond in the denomination of \$5,000.

Written notice of any call for redemption and payment of the Bonds shall be



given by the Paying Agent by United States first class mail not less than 30 days prior to the date established for such redemption and payment, to the Registered Owners of the Bonds so called for redemption and payment as shown on the Registration Books maintained by the Bond Registrar. On or before any date established for redemption and payment, the City shall deposit with the Paying Agent sufficient funds to pay the Bonds called for redemption and payment at the stated redemption price and all unpaid and accrued interest thereon to the date of such redemption and payment. Upon the deposit of said funds, and the giving of notice of such redemption and payment as aforesaid, Bonds thus called for redemption shall cease to bear interest from and after the date of their redemption and payment.

### **Paying Agent and Bond Registrar**

The Treasurer of the State of Kansas, Topeka, Kansas, has been designated as Paying Agent and Bond Registrar for the Bonds (hereinafter called the "Paying Agent"). The fees of the Paying Agent for the registration, transfer, exchange, payment and redemption, if any, of the Bonds shall be paid by the City. The City shall also pay for the printing of a reasonable supply of blank registered bond certificates for such purpose. Any additional costs or fees that might be incurred in the secondary market, except the fees of the Paying Agent, shall be the responsibility of the Registered Owners of the Bonds.

### **Payment of Principal and Interest on Bonds; Ownership Registration**

One certificate representing the entire principal amount of each maturity of the Bonds will be issued to The Depository Trust Company, New York, New York (hereafter called "DTC"), registered in the name of Cede & Co. (DTC's partnership nominee), and will be immobilized in the custody of DTC. A book-entry-only system of issuance will be employed, evidencing ownership of the Bonds in the permitted \$5,000 denominations, with transfers of ownership effected on the records of DTC and its Direct Participants pursuant to the rules and procedures established by DTC and its participants. Principal and interest on the Bonds will be paid in same day funds to DTC or its nominee as the Registered Owner of the Bonds. DTC's practice is to credit Direct Participants' accounts on the payable date. Payments by Direct Participants to Beneficial Owners will be governed by standing instructions and customary practices. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. Reference is made to the Preliminary Official Statement for further information regarding the book-entry-only issuance of the Bonds.

### **Conditions of Bidding**

Individual proposals for the purchase of the Bonds shall be received bearing such rate or rates of interest as may be specified by the bidder, subject to the conditions of this paragraph. The same rate of interest shall apply to all Bonds having the same maturity date. Each interest rate specified shall be in an even multiple of 1/8th or 1/20th of 1%. *No interest rate specified for a maturity for the Bonds may be less than the interest rate specified for any prior maturity for the Bonds unless the interest rate bid for any maturity is not more than 1% lower than the*

*highest interest rate specified for any preceding maturity of the Bonds.* The maximum stated rate of interest on any Bond shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the date of the public sale, plus 6%. No bid for less than 100% of the par value, plus accrued interest thereon from the Dated Date to the date of delivery, shall be considered, and no supplemental interest payments shall be authorized. Each bid must state (i) the total interest cost to the City during the life of the Bonds on the basis of the bid, (ii) the premium, if any, offered by the bidder, (iii) the net interest cost to the City on the basis of the bid, and (iv) the true interest cost (as hereinafter defined) on the basis of such bid. Each bid shall be certified by the bidder to be correct, and the Governing Body of the City shall be entitled to rely on such certificate of correctness.

### **Form and Submission of Bid; Good Faith Deposit**

Bids must be submitted through the PARITY Electronic Bid Submission System ("PARITY"). To the extent any instructions or directions set forth in PARITY conflict with the Official Notice of Sale, the terms of the Official Notice of Sale shall control. All bids must be received by the undersigned prior to 10:00 a.m. on Sale Date, accompanied by the good faith deposit described below, which may be submitted separately, provided such good faith deposit is received by the City at or prior to the times specified below on the Sale Date. The City shall not be responsible for any failure, misdirection or error in the means of transmission via PARITY. Bids submitted in accordance with this section and accepted by the City as provided below shall be binding obligations of the bidders. For further information about the electronic bidding services of PARITY, potential bidders may contact Ipreo, 1359 Broadway, 2nd Floor, New York, NY 10010, (212) 849-5021.

### **Good Faith Deposit**

Each bid for the Bonds shall be accompanied by a good faith deposit in an amount equal to 2% of the principal amount of the Bonds (*i.e.*, \$354,200). The good faith deposit must be in the form of (1) a certified or cashier's check drawn on a bank located in the United States of America, payable to the order of the City, (2) a Financial Surety Bond (as described below) payable to the order of the City or (3) a wire of Federal Reserve funds (as described below), immediately available for use by the City. If a bid is accepted, such good faith deposit shall be deposited by the City until the bidder shall have complied with all of the terms and conditions of this Notice and of its bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this Notice or of its bid, said bidder's good faith deposit shall be retained by the City for liquidated damages. If a bid is accepted, but the City shall fail to deliver the Bonds to the bidder in accordance with the terms and conditions hereof, said good faith deposit amount shall be returned to the bidder. No interest shall be paid upon the successful bidder's good faith deposit. Checks representing the good faith deposit accompanying the bids of the unsuccessful bidders shall be promptly returned.

*Certified or Cashier's Check Received By 10:00 a.m.* If a certified or cashier's check is used for the good faith deposit, it must be received by the City by 10:00 a.m. on the Sale Date by delivery to Ms. Catherine Gilley, Debt Coordinator, Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679.

Financial Surety Bond Received By 9:30 a.m. If a Financial Surety Bond is used for the good faith deposit, emailed ([cgilley@wichita.gov](mailto:cgilley@wichita.gov)) notification of the surety bond must be received by Ms. Catherine Gilley, Debt Coordinator by the insurance company issuing the surety bond by 9:30 a.m. on the Sale Date. If a Financial Surety Bond is used, it must be from an insurance company licensed to issue such surety bond in the State of Kansas. Such surety bond must be submitted to the Director of Finance prior to the time that bids for the purchase of the Bonds will be received. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If the Bonds are awarded to a bidder using a Financial Surety Bond, then that bidder is required to submit its good faith deposit to the City in the form of a certified or cashier's check or wire transfer as instructed by the Director of Finance not later than 2:00 p.m. on the next business day following the award of the Bonds. If such check or wire transfer is not received by that time, the Financial Surety Bond will be drawn by the City to satisfy the good faith deposit requirement.

Wire Transfer Received By 9:30 a.m. If a wire transfer of the good faith deposit is used, the wire transfer shall be sent to the City for receipt by 9:30 a.m. on the Sale Date. Wire transfer instructions may be obtained by contacting:

Catherine Gilley  
Debt Coordinator  
455 North Main – 12<sup>th</sup> Floor  
Wichita, Kansas 67202  
316/268-4143  
[cgilley@wichita.gov](mailto:cgilley@wichita.gov)

If a wire transfer of the good faith deposit is used, the wire transfer identification information shall reference the Bonds by including the following information:

Ref: City of Wichita, Kansas Good Faith Deposit, Series 2012A Bonds

Contemporaneously with such wire transfer, each bidder shall send an e-mail to [cgilley@wichita.gov](mailto:cgilley@wichita.gov) and [shenning@wichita.gov](mailto:shenning@wichita.gov) including the following information: (i) indication that a wire transfer has been made; (ii) the amount of the wire transfer; (iii) the wire transfer federal reference number; (iv) the return wire instructions if such bidder is not awarded the Bonds; (v) the name of the bidder for which the wire transfer is to be credited as a good faith deposit and (vi) if the name of the bidder as shown on *PARITY* does not match the name shown as the beneficiary on the wire instructions, the email will also state that the bidder is identified by the beneficiary's name on the wire instructions.

## **Awarding of Bonds**

The Bonds will be awarded to the responsible bidder offering to pay not less than the par amount of the Bonds and accrued interest thereon and specifying a rate or rates of interest that result in the lowest effective interest rate to the City. The effective interest rate to the City shall be the interest rate per annum determined on a per annum true interest cost ("TIC") basis by

discounting the scheduled semiannual debt service payments of the City on the Bonds (based on such rate or rates of interest so bid), to the Dated Date of the Bonds (based on a 360-day year), compounded semiannually and to the bid price, excluding accrued interest to the date of delivery. The City reserves the right to verify each bidder's calculation of TIC, and the award shall be made to the bidder whose proposal results in the lowest TIC calculated in accordance with the provisions of this Notice. If two or more identical bids for the lowest TIC are received, the Governing Body shall determine which bid, if any, shall be accepted, and such determination shall be final. The Governing Body reserves the right to reject any and/or all bids, and to waive any irregularities in any bid submitted.

## **Rating**

The most recent rating given to the City's Water and Sewer Utility Revenue Bonds (dated November 17, 2011) by Standard & Poor's, a division of the McGraw-Hill Companies, Inc. ("S&P") was a rating of AA-. The City has applied to S&P for a rating on the Bonds described herein.

## **CUSIP Identification Numbers**

The CUSIP Service Bureau will be requested to assign CUSIP identification numbers to the Bonds, and such numbers shall be printed on the Bonds; however, neither the failure to assign any such number to or print any such number on any Bond, nor any error with respect thereto, shall constitute cause for the failure or refusal by the successful bidder to accept delivery of and to make payment for the Bonds in accordance with the terms of this Notice and of its bid. All expenses in relation to the printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for the assignment thereof shall be the responsibility of and shall be paid for by the City.

## **Delivery of and Payment for Bonds**

A single Bond per maturity, duly printed or typewritten, executed and registered in conformity with the laws of the State of Kansas, shall be furnished and delivered at the expense of the City to the successful bidder of the Bonds on or about May 24, 2012, by deposit of such Bonds with DTC. Payment for the Bonds shall be received by 12:00 noon on the delivery date, in Federal Reserve funds immediately available for use by the City.

The successful bidder for the Bonds shall be furnished with a certified Transcript of Proceedings evidencing the authorization and issuance of the Bonds, and the usual closing proofs, which shall include a Certificate that there is no litigation pending or threatened at the time of the delivery of such Bonds affecting their validity and also regarding the completeness and accuracy of the Official Statement.

## **Official Statement**

The Governing Body of the City has authorized and directed the preparation of a Preliminary Official Statement in connection with the issuance of the Bonds, copies of which

may be obtained from the City's Department of Finance. The Preliminary Official Statement is in a form "deemed final" by the Governing Body for the purpose of the Securities Exchange Commission's Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final Official Statement. Authorization is hereby given to redistribute this Official Notice of Sale and the Preliminary Official Statement, but this entire Official Notice of Sale and the entire Preliminary Official Statement, and not portions thereof, must be redistributed.

By awarding the Bonds to any bidder or bidding syndicate submitting a proposal therefor, the Governing Body agrees that, no more than seven business days after the date of such award, it shall provide without cost to the senior managing underwriter of the syndicate to which such Bonds are awarded, a reasonable number of copies of the final Official Statement. The City designates the senior managing underwriter of any syndicate to which the Bonds are awarded as agent for purposes of distributing copies of the final Official Statement to each participating underwriter. Any bidder delivering a proposal with respect to the Bonds agrees thereby that if such proposal is accepted (i) it shall accept such designation, and (ii) it shall enter into a contractual relationship with all participating underwriters of such Bonds for purposes of assuring the receipt by each such participating underwriter of the final Official Statement. Copies of the final Official Statement in excess of a reasonable number may be ordered by the successful bidder at its expense.

As of the date of the delivery and payment for the Bonds, the successful bidder will be furnished with a certificate signed by the appropriate officers of the City and dated as of the date of the delivery and payment of the Bonds that, to the best knowledge of the officers of the City executing such certificate, the City has not made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading and that as of the date of the Official Statement and as of the date of delivery and payment for the Bonds, there has been no material adverse change in the financial condition or financial affairs of the City subsequent to the date of the initial issuance and distribution of the Official Statement.

### **Continuing Disclosure**

The City will execute and deliver a Continuing Disclosure Certificate for the Bonds in order to provide ongoing disclosure concerning the City in connection with such Bonds for the benefit of the Owners of such Bonds, as required under Section (b)(5)(i) of Securities and Exchange Commission Rule 15c2-12. As of the date hereof, to the best knowledge of the officer of the City executing this Notice, the City has not failed to comply with a continuing disclosure undertaking required by an underwriter for purposes of compliance with said Rule 15c2-12.

### **Authority, Purpose and Security**

The Bonds shall be issued under the authority of the Constitution and laws of the State of Kansas, including Article 12, Section 5, of the Constitution of the State of Kansas, K.S.A. 10-101 *et seq.*, as amended and supplemented, K.S.A. 10-1201 *et seq.*, as amended and supplemented, and Charter Ordinance No. 211 of the City, and the Bonds shall be authorized by

a Bond Ordinance and accompanying Resolution which shall be adopted and passed, respectively, by the Governing Body after the awarding of the Bonds.

The proceeds of the Bonds shall be used to pay the costs of constructing, reconstructing, altering, repairing, improving, extending or enlarging the Water and Sewer Utility owned and operated by the City.

The Bonds and the interest thereon shall constitute special obligations of the City, and shall be payable as to both the principal of and the interest thereon solely and only from the revenues derived by the City from the operation of its Water and Sewer Utility, after the payment of the costs of operation and maintenance. The taxing power of the City is not pledged to the payment of the Bonds or the interest thereon. The Bonds shall be on a parity with and co-equal in stature and priority to the City's outstanding Water and Sewer Utility Refunding Revenue Bonds, Series 1998 (the "Series 1998 Bonds"); Water and Sewer Utility Revenue Bonds, Series 2000 (the "Series 2000 Bonds"); Water and Sewer Utility Refunding Revenue Bonds, Series 2005A (the "Series 2005A Bonds"); Water and Sewer Utility Refunding Revenue Bonds, Series 2005B (the "Series 2005B Bonds"); Water and Sewer Utility Revenue Bonds, Series 2005C (the "Series 2005C Bonds"); Water and Sewer Utility Revenue Bonds, Series 2006 (the "Series 2006 Bonds"); Water and Sewer Utility Revenue Bonds, Series 2008A (the "Series 2008A Bonds"); Water and Sewer Utility Revenue Bonds, Series 2009A (the "Series 2009A Bonds"); Water and Sewer Utility Revenue Bonds, Series 2009B (Taxable Under Federal Law) (the "Series 2009B Bonds") Water and Sewer Utility Revenue Bonds, Series 2010A (the "Series 2010A Bonds"); Water and Sewer Utility Revenue Bonds, Series 2010B (Taxable Under Federal Law) (the "Series 2010B Bonds"); and Water and Sewer Utility Refunding Revenue Bonds, Series 2011A (the "Series 2011A Bonds"). The Series 1998 Bonds, Series 2000 Bonds, Series 2005A Bonds, Series 2005B Bonds, Series 2005C Bonds, Series 2006 Bonds, Series 2008A Bonds, Series 2009A Bonds, the Series 2010A Bonds, the Series 2010B Bonds and the Series 2011A Bonds are more fully described in the Official Statement. The Bonds shall not constitute revenues of the City, and shall not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

### **Legal Opinion**

All matters relating to the authorization and issuance of the Bonds are subject to the approving opinion of Kutak Rock LLP, Kansas City, Missouri, Bond Counsel. Bond Counsel's opinion shall be furnished without expense to the successful bidder concurrently with delivery of the Bonds. All fees and expenses of Bond Counsel shall be paid by the City. Reference is made to the Official Statement for further discussion of federal and Kansas income tax matters relating to the interest on the Bonds and for the form of opinion of Bond Counsel.

### **Not Bank-Qualified**

The Bonds will not be designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

### **Certification as to Offering Prices**

The successful bidder for the Bonds will be required to complete, execute and deliver to the City, prior to the delivery of the Bonds, a certificate regarding the “issue price” of the Bonds (as defined in Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”). The certificate shall state that, as of the Sale Date, the bidder reasonably expected to offer all of the Bonds to the general public (excluding bond houses, brokers, or similar persons acting in the capacity of underwriters or wholesalers) in a bona fide public offering at the prices set forth in such certificate (excluding accrued interest and expressed as dollar prices) and that all of the Bonds have actually been offered to the general public at such prices. Such certificate, however, may indicate that the successful bidder will not reoffer such Bonds for sale. The form of such certificate may be obtained from Bond Counsel prior to the Sale Date.

### **Additional Information**

Additional information regarding the Bonds may be obtained from the Department of Finance, Twelfth Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679, Catherine Gilley, Debt Coordinator, Telephone 316-268-4143, E-mail: [cgilley@wichita.gov](mailto:cgilley@wichita.gov). To obtain a Preliminary Official Statement visit [www.onlinemuni.com](http://www.onlinemuni.com).

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**BY ORDER OF THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS, ON APRIL 10, 2012.**

By: /s/ Carl Brewer, Mayor  
Carl Brewer, Mayor

(Seal)

ATTEST:

By: /s/ Karen Sublett, City Clerk  
Karen Sublett, City Clerk



City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** Municipality Resolution to Obtain Credit Card Account

**INITIATED BY:** Department of Finance

**AGENDA:** Consent

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**Recommendation:** Approve amended Municipality resolution for Credit Card Account.

**Background:** The City of Wichita has maintained a credit card account since 1997. The users have grown over the past 12 years to over 425 cards. The City currently has a contract with Commerce Bank to issue these cards at no cost to the City. Using the card has lowered the volume of invoices coming into the City to be prepared for payment through check or Automated Clearing House. The City's current usage of credit cards is over 20,000 transactions annually.

**Analysis:** This resolution will give authority to the Credit Card Administrator, Purchasing Manager and the Purchasing Manager's designee by specific name to establish credit card accounts on behalf of the City of Wichita. Due to new staff members, a new resolution is required. There is no change to the outstanding resolution except to update the individual City representatives.

**Financial Considerations:** There is no cost to the City for these accounts. The City receives revenue sharing for card usage with our current bank, if the average transaction for the month is above \$300. Average annual revenue to the general fund is \$60,000.

**Goal Impact:** Increased productivity by increasing purchases made from credit cards. Purchases with credit cards would lower the volume of invoices coming into the City to be paid using less time and supplies to accomplish the accounts payable process.

**Legal Considerations:** The resolution has been approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the City Council approve the amended resolution as written establishing the credit card account.

**Attachment :** Amended Resolution

## RESOLUTION NO.

A RESOLUTION AUTHORIZING THE CREDIT CARD ADMINISTRATOR, PURCHASING MANAGER, BUYER AND ACCOUNT CLERK III NAMED BELOW TO DIRECT AND ESTABLISH CREDIT CARD ACCOUNTS WITH THE COMMERCE BANK, N.A. (OMAHA, NE.) AND FORWARD TO THE MAYOR FOR EXECUTION ALL DOCUMENTS WHICH THE GOVERNING BODY HAS APPROVED TO EFFECTUATE THIS PURPOSE, INCLUDING WITHOUT LIMITATION ANY APPLICATION AND AGREEMENT TO OPEN THE ACCOUNTS.

**WHEREAS**, it is the intention of the Governing Body that any one of Purchasing Manager Melinda Walker, Credit Card Administrator Hannah Lang, Buyer Lee Ann Hendricks or Account Clerk III Tracy Jordan, who are employees of this municipality, may from time to time request request Commerce Bank, N.A. (“Commerce”) to issue bank cards to any person in connection with any of the accounts.

**WHEREAS**, it is the further intention of the Governing Body that any one of the foregoing named employees of this municipality may from time to time appoint a city staff member as administrator to assist Commerce in the administration of the credit card program as provided in the Commerce Bank Commercial Card Agreement.

**WHEREAS**, it is the further intention of the Governing Body that Commerce be authorized to act upon this Resolution until written notice of revocation is delivered to Commerce, and that the authority hereby granted shall apply with equal force and effect to the successors in office of the officers named herein.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Authorization of the Credit Card Administrator, Purchasing Manager, Buyer and Account Clerk III to direct and establish credit card accounts with Commerce. Any one of the foregoing named employees of this municipality (whose specimen signatures are also affixed below) may from time to time request Commerce Bank, N.A. (“Commerce”) to issue bank cards to any person in connection with any of the accounts, and may from time to time appoint a city staff member as administrator to assist Commerce in the administration of the credit card program as provided in the Commerce Bank Commercial Card Agreement. Each of such officers is also authorized to forward to the Mayor for execution all documents which the Governing Body has approved to effectuate this purpose, including without limitation any application and agreement to open the accounts.

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Credit Card Administrator

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Buyer

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Purchasing Manager

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Account Clerk III

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Section 2. Authority of City Clerk to attest. The City Clerk or any Deputy city clerk is hereby authorized and directed to attest the Mayor's signature on such documents, for and on behalf of the City.

Section 3. Continuing Authority of specified office holders. Commerce is authorized to act upon this Resolution until written notice of revocation is delivered to Commerce, and the authority hereby granted shall apply with equal force and effect to the successors in office of the officers named herein

Section 4. Effective Date. This Resolution shall take effect immediately upon its passage by the Governing body of the City.

Adopted by the governing body of the City of Wichita, Kansas, this 10<sup>th</sup> day of April, 2012.

CITY OF WICHITA, KANSAS

By \_\_\_\_\_

Carl Brewer, Mayor

ATTEST:

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Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

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Gary E. Rebenstorf  
Director of Law

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council Members

**SUBJECT:** Reintegration of Ex-Offenders Training & Service-Learning Grant Application

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** Consent

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**Recommendation:** Approve submission of the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning funding application and authorize the necessary signatures.

**Background:** The U.S. Department of Labor (DOL) has announced the availability of grant funds to serve young adult offenders ages 18 to 21 who have been involved in the juvenile justice system as early as age 14 and have never been convicted as an adult under Federal or State law. The Reintegration of Ex-Offenders (RExO) Training and Service-Learning grant provides funds for training that is expected to lead to credentials recognized by in-demand industries in the grantee's geographic area to be served. It also provides funds for service-learning projects that integrate meaningful community service with instruction and reflection, enrich the learning experience, teach civic responsibility, and encourage lifelong civic engagement. The DOL plans to award a minimum of 20 grants, of up to \$1.5 million each, for projects in communities across the country. The grants will have a maximum performance period of 30-months, which will include time for planning and follow-up. The application deadline is April 17, 2012.

**Analysis:** In the Sedgwick County Juvenile Community Planning Team's Benchmark 5 report (May 2011), several risk factors are analyzed relative to juvenile delinquency. Some risk factors are related to leisure and/or recreation where the findings demonstrate that few youth in the juvenile justice system have pro-social leisure and recreational pursuits. Specifically they recommend mentoring, role modeling, alternative community activities and increased interaction with pro-social others. This grant will specifically address the need for positive community activities through the service learning component. The skills training and job placement will also provide positive activities to fill their leisure time.

A consortium of City government and community agencies has been identified to submit a Wichita/Sedgwick County Reintegration of Ex-Offenders (RExO) Training and Service-Learning Application for \$1.5 million dollars. The City of Wichita will be designated as the lead applicant and fiscal agent for the grant. The Housing and Community Services Department will administer the grant through its Career Development Division (CDD). The Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning program will include the following core objectives by providing:

- Meaningful community service-learning opportunities that will be of value to the local community and help participants learn work skills, including soft skills required for effective and sustained employment;
- Educational interventions that lead to placement opportunities in post-secondary education and vocational training that leads to industry-recognized credentials in demand industries;

- Community awareness of service projects that rebuilds community trust in participants and view them as assets rather than liabilities;
- Favorable staff-to-participant ratio providing close adult supervision on service-learning projects;
- A career development component through partnerships with employers for job placements with skill training, agreements with post-secondary local education providers, registered apprenticeship programs, and/or vocational training leading to industry-recognized credentials for in-demand industries; and
- Post-program support and follow-up to ensure that participants retain jobs, complete educational or training programs, and continue their participation in other career development opportunities in which they are placed.

Consortium and support partnerships will include representatives from the following sectors (at a minimum):

- Sedgwick County juvenile justice system;
- City government departments (Fire, Housing and Community Services, Municipal Courts, OCI, Park and Police)
- Local workforce investment system;
- Education and training providers;
- Local employers, including professional organizations and trade association; and
- Community and faith-based organizations.

If the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application is funded, prior to grant implementation, Memoranda of Understanding will be established with all agencies receiving funding or payments through the grant with prior review by the Law Department.

**Financial Considerations:** There is no match requirement for the grant. No general operating funds from the City's budget are obligated by this application.

**Goal Impact:** This program will contribute to the Economic Vitality and Affordable Living and Quality of Life goals.

**Legal Considerations:** The Law Department has approved the application summary as to form.

**Recommendation/Action:** It is recommended that the City Council approve submission of the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application and authorize the necessary signatures.

**Attachments:** Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application summary.

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council Members

**SUBJECT:** Reintegration of Ex-Offenders Training & Service-Learning Grant Application

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** Consent

---

**Recommendation:** Approve submission of the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning funding application and authorize the necessary signatures.

**Background:** The U.S. Department of Labor (DOL) has announced the availability of grant funds to serve young adult offenders ages 18 to 21 who have been involved in the juvenile justice system as early as age 14 and have never been convicted as an adult under Federal or State law. The Reintegration of Ex-Offenders (RExO) Training and Service-Learning grant provides funds for training that is expected to lead to credentials recognized by in-demand industries in the grantee's geographic area to be served. It also provides funds for service-learning projects that integrate meaningful community service with instruction and reflection, enrich the learning experience, teach civic responsibility, and encourage lifelong civic engagement. The DOL plans to award a minimum of 20 grants, of up to \$1.5 million each, for projects in communities across the country. The grants will have a maximum performance period of 30-months, which will include time for planning and follow-up. The application deadline is April 17, 2012.

**Analysis:** In the Sedgwick County Juvenile Community Planning Team's Benchmark 5 report (May 2011), several risk factors are analyzed relative to juvenile delinquency. Some risk factors are related to leisure and/or recreation where the findings demonstrate that few youth in the juvenile justice system have pro-social leisure and recreational pursuits. Specifically they recommend mentoring, role modeling, alternative community activities and increased interaction with pro-social others. This grant will specifically address the need for positive community activities through the service learning component. The skills training and job placement will also provide positive activities to fill their leisure time.

A consortium of City government and community agencies has been identified to submit a Wichita/Sedgwick County Reintegration of Ex-Offenders (RExO) Training and Service-Learning Application for \$1.5M. The City of Wichita will be designated as the lead applicant and fiscal agent for the grant. The Housing and Community Services Department will administer the grant through its Career Development Division (CDD). The Wichita/Sedgwick County Reintegration of Ex-Offenders (RExO) Training and Service-Learning program will include the following core objectives by providing:

- Meaningful community service-learning opportunities that will be of value to the local community and help participants learn work skills, including soft skills required for effective and sustained employment;
- Educational interventions that lead to placement opportunities in post-secondary education and vocational training that leads to industry-recognized credentials in demand industries;
- Community awareness of service projects that rebuilds community trust in participants and view them as assets rather than liabilities;

- Favorable staff-to-participant ratio providing close adult supervision on service-learning projects;
- A career development component through partnerships with employers for job placements with skill training, agreements with post-secondary local education providers, registered apprenticeship programs, and/or vocational training leading to industry-recognized credentials for in-demand industries; and
- Post-program support and follow-up to ensure that participants retain jobs, complete educational or training programs, and continue their participation in other career development opportunities in which they are placed.

Consortium and support partnerships will include representatives from the following sectors (at a minimum):

- Sedgwick County juvenile justice system;
- City government departments (Fire, Housing and Community Services, Municipal Courts, OCI, Park and Police)
- Local workforce investment system;
- Education and training providers;
- Local employers, including professional organizations and trade association; and
- Community and faith-based organizations.

If the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application is funded, prior to grant implementation, Memoranda of Understanding will be established with all agencies receiving funding or payments through the grant with prior review by the Law Department.

**Financial Considerations:** There is no match requirement for the grant. No general operating funds from the City's budget are obligated by this application.

**Goal Impact:** This program will contribute to the Economic Vitality and Affordable Living and Quality of Life goals.

**Legal Considerations:** The Law Department has approved the application summary as to form.

**Recommendation/Action:** It is recommended that the City Council approve submission of the Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application and authorize the necessary signatures.

**Attachments:** Wichita/Sedgwick County Reintegration of Ex-Offenders Training and Service-Learning Application summary.

**City of Wichita  
City Council Meeting  
April 10, 2012**

**TO:** Mayor and City Council

**SUBJECT:** Emergency Change Order - Douglas Block Parking Garage (District I)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendation:** Approve Change Order No. 5.

**Background:** The City has entered into a development agreement with Douglas Place, LLC and Slawson Investment Corporation regarding improvements to the Douglas Block properties, an area bordered by Douglas, Topeka, William and Broadway Streets in downtown Wichita. As part of that development agreement, the City will construct a parking garage on the northwest corner of Topeka and William Streets. WDM Architects is the designer of the project and Key Construction was awarded the construction contract following a normal bid process.

The architect's design is for a parking garage constructed of precast concrete components. The structural engineer designed the garage footings and foundations using estimated weights provided by the company that will construct the precast concrete components. The design utilizes 126 auger cast piers, which are round holes 14 inches in diameter that are bored 68 feet into the earth and filled with concrete. These 126 auger cast piles are included in the construction contract.

**Analysis:** The precast concrete supplier has engineers on staff who prepares detailed fabrication drawings for the parking structure components based on the architect's plans, but the work is never finalized until a purchase order has been received from the general contractor. When the project for the final design is completed, it was determined that the estimated weights ("reactions" in engineering terminology) that was supplied earlier to the project architects and engineers were too low.

The structural engineer for the parking garage has determined that, based on the analysis and the new information from the precast supplier, an additional 21 auger cast piles must be added at certain key locations to support the garage. A copy of an email from the structural engineer explaining why this is required is attached.

The general contractor has prepared a price quote for the additional piers totaling \$20,211, a copy of which is attached. The final preparation of the soil under the garage has been accomplished, and the company who will be installing the piers started the work the week of April 1. The general contractor stated that authorization was needed to add the 21 piers by April 5 in order to avoid a work delay. Given the tight project completion schedule and time already lost to the additional site preparation previously authorized, providing a rapid response was critical. Therefore a declaration of public exigency was approved and the general contractor was authorized to proceed with installing the additional auger cast piles per the engineer's recommendations.



**Financial Considerations:** The budget for the Douglas Place Development currently includes \$835,027 of unencumbered funds. The cost of this work would be paid from the project budget. This would bring total change orders to \$193,961 representing 4.16% of the project budget.

**Goal Impact:** This parking garage will improve the quality of life of the people who come to utilize the lodging, retail and office facilities being developed in the downtown area, and it will help encourage further economic development downtown.

**Legal Considerations:** City Ordinance 2.64.020(a), “Public Emergency,” allows the City Manager to authorize emergency work to be performed by a contractor without prior approval by Council. Change Order No. 5 has been approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council approve Change Order No. 5 and authorize the necessary signatures.

**Attachments** Declaration of Public Exigency, engineer’s letter, Key Construction price quotation and Change Order No. 5.

**Martin, Edward**

---

**From:** Luke Scott [lscott@wdmarchitects.com]  
**Sent:** Monday, April 02, 2012 3:08 PM  
**To:** Martin, Edward  
**Cc:** Wes Darnell  
**Subject:** FW: Douglas Block Parking Garage - Additional Piles

Ed,

See the attached message from the structural engineer. Let me know you need anything else.

**Luke Scott, AIA**  
**WDM Architects P.A.**  
105 North Washington  
Wichita, KS 67202  
316.262.4700

*Please Consider the Environment*

---

**From:** Shaun Karlin [mailto:skarlin@Mkec.com]  
**Sent:** Monday, April 02, 2012 3:03 PM  
**To:** Luke Scott  
**Cc:** Wes Darnell; Russ Redford  
**Subject:** Douglas Block Parking Garage - Additional Piles

Luke,

Per your request, I am writing this email to explain the additional piers/pile caps required on the Douglas Block Parking Garage. The original foundation design for the building was based on the Preliminary Reactions provided by the precast supplier. MKEC requested that the final foundation reactions be provided when available so we could verify our foundation system is adequate, and make adjustments as necessary prior to construction of any foundations. Upon review of the reactions, we found several areas that required revisions. A couple of the pile caps got smaller which eliminated 2 piles, but several pile caps and grade beams got larger which added 21 piles. The foundation revisions issued as part of Architectural Supplemental Instruction (ASI) #4 dated 3-27-12 were the result of the final reaction review.

If you have any questions, or need additional information, please let me know.

Thanks,

**Shaun A. Karlin, P.E.**



411 N. Webb Rd.  
Wichita, Kansas 67206  
(P) 316-684-9600  
(F) 316-616-0241

## Martin, Edward

---

**From:** Scott Casebolt [shcasebolt@keyconstruction.com]  
**Sent:** Friday, March 30, 2012 3:15 PM  
**To:** Martin, Edward  
**Cc:** Wes Darnell; Steve Loehr  
**Subject:** Douglas Garage - Added Auger Cast Piles  
**Attachments:** Change Order Request ASI #4 Pile Pricing.xlsx  
  
**Categories:** Red Category

Ed, I apologize, but the information I gave you on the added piles yesterday was incorrect. The engineer made a mistake when he stated that there were 12 piles added. Overall, there are actually 21 piles added, including 2 that were deleted by previous RFI's.

Attached is the pricing for the pile work, but it is substantially more than I stated yesterday. Please review and let me know how you would like to proceed. We would need approval on this by 4-5-12 as to not delay the pile operations.

Added concrete pricing will follow in the next few days.

Scott Casebolt  
Project Manager  
Key Construction, Inc.  
Phone 316-263-9515  
Fax 316-263-1161  
[shcasebolt@keyconstruction.com](mailto:shcasebolt@keyconstruction.com)  
[www.keyconstruction.com](http://www.keyconstruction.com)

## Douglas Block Parking Garage

### ASI #4 Pricing for Auger Cast Pile Portion of Added Work

Item	Description	Cost
RFI #1	Add 21 each 68 foot deep auger cast piles @ \$9.75/ft	\$13,923.00
	Reinforcing steel material for piles	\$690.00
	42 man hours @ \$32/hr to tie and place reinforcing steel	\$1,344.00
	3 days added duration for piles. 3 days general condition costs.	\$1,542.00
	Subtotal	\$17,499.00
	Key Overhead 5%	\$874.95
	Key Profit 10%	\$1,837.40
	Total	\$20,211.35

Also request 3 days extension to project duration due to added duration of piles.  
Costs for added concrete work to follow at a later date.



PUBLIC WORKS-ENGINEERING

April 10, 2012

**CHANGE ORDER NO. 5**

To: Key Construction, Inc.

Project: Douglas Block Parking Garage

Change Order No.: Five (5)

Project No.: 435472

Purchase Order No.: 240032

OCA No.: 50/50 to 792574 & 792575

CHARGE TO OCA No.: 50% to 792574

PPN:

50% to 792575

Please perform the following extra work at a cost not to exceed **\$20,211.35**

**Additional Work:** Add 21 additional auger cast piles to support the garage per the structural engineer's revised design. Also add 3 days to the project completion schedule.

**Reason for Additional Work:** The initial design included 126 auger cast piles based on estimated loads provided by the precast supplier's staff engineers. They completed their detailed calculations after receiving a PO from the general contractor and found the loads they had provided the structural engineer were too low. The corrected loads were provided to the structural engineer who concluded that, based on the new information, 21 additional auger cast piles 68 ft. deep would be required.

Item	Negot'd/Bid	Qty	Unit Price	Extension
Add auger cast piles	Negotiated	21 x 68 ft.	\$9.75/ft.	\$13,923.00
Reinforcing Steel	Negotiated			\$690.00
Labor	Negotiated	43 man hours	\$32/hr	\$1,344.00
General Conditions	Negotiated	3 days	\$514/day	\$1,542.00
Subtotal				\$17,499.00
Key Overhead	Negotiated		5%	\$874.95
Key Profit	Negotiated		10%	\$1,837.40
TOTAL				\$20,211.35

CIP Budget Amount: **\$7,570,000.00**

Original Contract Amt.: **\$4,664,364.00**

Consultant: WDM Architects

Current CO Amt.: **\$20,211.35**

Total Exp. & Encum. To Date: **\$6,734,973.23**

Amt. of Previous CO's: **\$173,750.75**

CO Amount: **\$20,211.35**

Total of All CO's: **\$193,961.35**

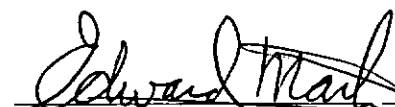
Unencum. Bal. After CO: **\$814,815.42**


% of Orig. Contract / 10% Max.: **4.16%**

Adjusted Contract Amt.: **\$ 4,858,325.35**

Recommended By:

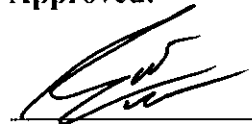
Approved:

  
Edward Martin  
Project Manager  
Date: 4/5/12

  
Jim Armour, P.E.  
City Engineer  
Date: 4-5-12

**Douglas Block Parking Garage  
Change Order No. 5 – Page 2**

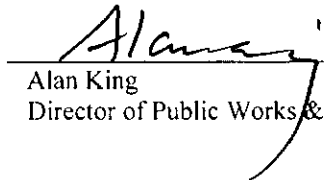
**Approved:**



Scott Casebolt  
Project Manager, Key Const.

4-5-12  
Date

**Approved:**



Alan King  
Director of Public Works & Utilities

4-5-12  
Date

**Approved:**

Kelly Carpenter  
Director of Finance

\_\_\_\_\_  
Date

**Approved:**

Robert Layton  
City Manager

\_\_\_\_\_  
Date



## INTEROFFICE MEMORANDUM

**TO:** Robert Layton, City Manager  
**CC:** Alan King, Director of Public Works & Utilities **ADK**  
**FROM:** Ed Martin, Building Services Manager  
**SUBJECT:** Request for Declaration of Public Exigency  
Douglas Block Parking Garage Project  
**DATE:** April 3, 2012

**Background:** Structural Engineers design the footings and foundation system for a building based on the weight of the building when occupied and the capacity of the soil to support that weight. Their design for the parking garage involves the use of auger cast piers, which are round holes 14 inches in diameter that are bored into the earth to a depth of 68 feet deep and filled with concrete. Based on preliminary information supplied by the precast concrete supplier for the garage, the structural engineers determined that 126 such piers would be required. That is what was indicated in the construction documents, and the construction contract includes those piers.

**New Development:** The precast concrete supplier has engineers on staff who prepare their detailed final design for the parking structure based on the architect's plans, but their work is never finalized until a purchase order has been received from the general contractor. When they completed the final design for this project, they determined that the estimated weights ("reactions" in engineering terminology) they supplied earlier to the project architects and engineers were too low.

The structural engineer for the parking garage has determined that, based on his analysis and the new information from the precast supplier, an additional 21 piers must be added at certain key locations to support the garage. A copy of an email from the structural engineer explaining why this is required is attached.

The general contractor has prepared a price quote for the additional piers totaling \$20,211.35, a copy of which is attached. The final preparation of the native soil under the garage is being accomplished now, and the company who will be installing the piers will be starting later this week. The general contractor has stated that he will need our authorization to add the 21 piers by April 5 if we are to avoid a work delay. Given the tight project completion schedule and time already lost to the additional site preparation previously authorized, it is critical that we move as quickly as possible to authorize this additional work based on the revised structural requirements.

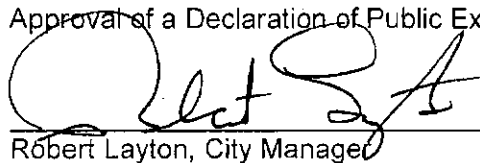
It is our understanding that a relatively small quantity of additional reinforced concrete footings that will go above the piers will be required, but it will be another week or more before they are designed and priced. The timing on them is not critical, so they are not included in this Declaration of Public Exigency. However, it is anticipated that they will be included in the Agenda Item that will go to City Council for consideration along with the additional piers.

**Recommendation:** Approve a declaration of Public Exigency and authorize Public Works to issue a change order to the contractor immediately for \$20,211.35 for the additional 21 auger cast piers per the revised structural requirements. Public Works will prepare an Agenda Item presenting a

Request for Declaration of Public Exigency – Page 2  
Douglas Block Parking Garage Project  
April 3, 2012

change order including this work, and any related additional concrete footings as required by the structural engineer, to City Council at the earliest opportunity.

Approval of a Declaration of Public Exigency



Robert Layton, City Manager

4/4/12  
Date

Attachments:

Email from MKEC Engineering Consultants  
Email from Key Construction with pricing attached



## **Martin, Edward**

---

**From:** Luke Scott [lscott@wdmarchitects.com]  
**Sent:** Monday, April 02, 2012 3:08 PM  
**To:** Martin, Edward  
**Cc:** Wes Darnell  
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Ed,

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*Please Consider the Environment*

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If you have any questions, or need additional information, please let me know.

Thanks,

**Shaun A. Karlin, P.E.**



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## Douglas Block Parking Garage

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	Key Profit 10%	\$1,837.40
	Total	\$20,211.35

Also request 3 days extension to project duration due to added duration of piles.  
Costs for added concrete work to follow at a later date.

**Second Reading Ordinances for April 10, 2012 (first read on April 3, 2012)**

**A. Amendments to Criminal Code, Chapters 1, 4, 5 and 6 of the Code of the City of Wichita Relating to Crime and Punishment for Criminal Offenses.**

**ORDINANCE NO. 49-254**

An ordinance amending Sections 1.04.160, 1.04.190 and 1.06.010 of the code of the City of Wichita, Kansas, creating Sections 1.04.023, 1.04.025, 1.04.027 and 1.04.028, pertaining to interpretation and enforcement and repealing the originals of Sections 1.04.160, 1.04.190 and 1.06.010 of the code of the City of Wichita, Kansas.

**ORDINANCE NO. 49-255**

An ordinance amending Sections 4.04.025 and 4.12.200 of the code of the City of Wichita, Kansas, pertaining to intoxicating liquors and beverages and repealing the originals of said sections.

**ORDINANCE NO. 49-257**

An ordinance amending Sections 6.04.035 and 6.04.040, creating Section 6.04.058 of the code of the City of Wichita, Kansas, pertaining to animal control and protection and repealing the originals of Sections 6.04.035 and 6.04.040 of the code of the City of Wichita, Kansas.

**B. Floodplain Management Ordinance (All Districts)**

**ORDINANCE NO. 49-258**

An ordinance amending Chapter 27.06 of the code of the City of Wichita, Kansas, all pertaining to floodplain management.

**C. ZON2012-00003 – Amendment #2 to Protective Overlay #36 to eliminate the prohibition on drive-through restaurants on property generally located north of 21st Street North and West of Maize Road (10758 W. 21st Street North)(District V)**

**ORDINANCE NO. 49-259**

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** ZON2012-00005 – City zone change from SF-5 Single-Family Residential (“SF-5”) and Limited Commercial (“LC”) to GC General Commercial (“GC”) with Protective Overlay (“PO”) #267, generally located between Kellogg Street/US 54 and I-35 and west of 127<sup>th</sup> Street East (District II)

**INITIATED BY:** Metropolitan Area Planning Department

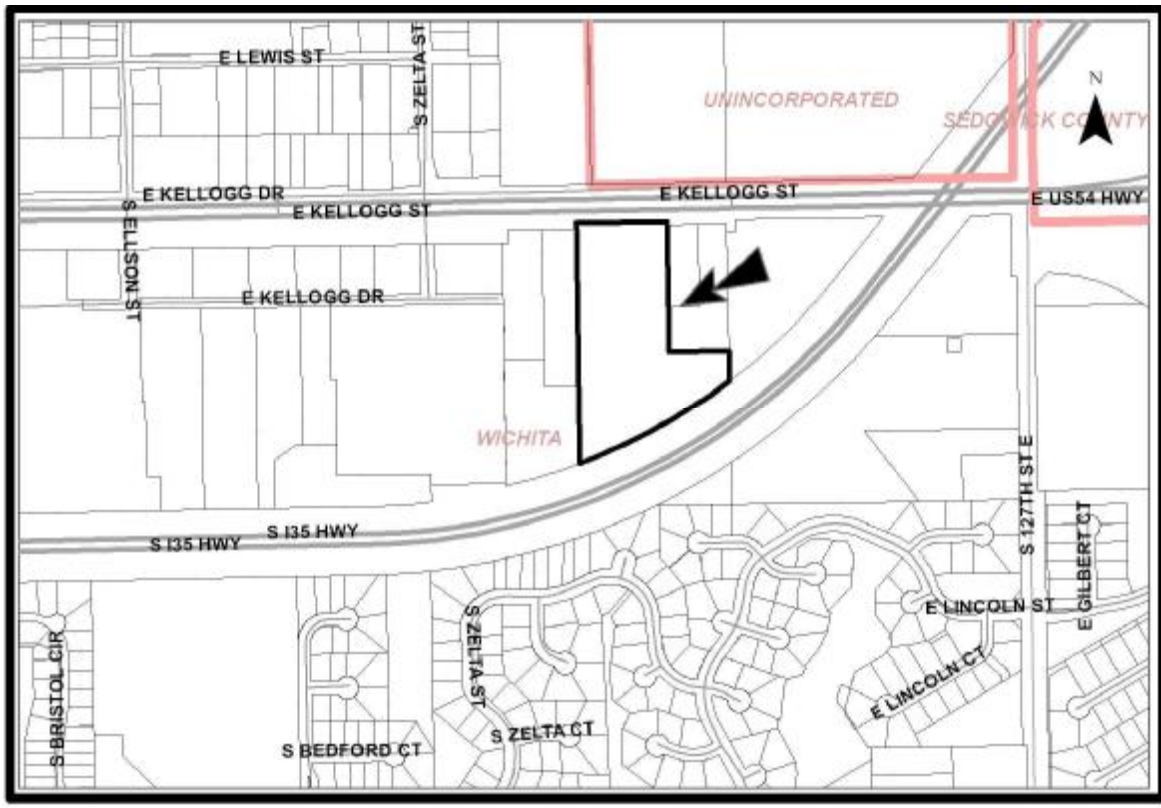
**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** The Metropolitan Area Planning Commission voted (7-0-1) to approve the request.

**DAB V Recommendation:** District Advisory Board II voted unanimously to approve the request.

**MAPD Staff Recommendation:** Planning staff recommends the request be approved.



**Background:** The applicant is requesting GC General Commercial (“GC”) zoning for the LC Limited Commercial (“LC”) and SF-5 Single-Family Residential (“SF-5”) zoned, undeveloped 10-acre tract. The applicant sells natural rock, used primarily in landscaping. The rocks are stored outside and may be cut per job order at the site. As described to staff, the applicant’s business fits into the Unified Zoning Code’s (“UZC”) definition of “Construction Sales and Service”; UZC, Sec. II-B, 3.n. Construction Sales and Service is permitted by right in the GC zoning district. In lieu of a Community Unit Plan (“CUP”) the applicant has proposed a Protective Overlay (“PO”). Sec. III-C, 2.b of the UZC permits the substitution of a PO for a CUP. The property must be platted.

The provisions of the PO are:

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land for development and be binding upon present land owners, their successors and assigns and their lessees unless amended.
2. If multiple ownership is anticipated an owners association agreement providing for the maintenance of reserves, open spaces, internal drives, parking areas, drainage improvements, etc, shall be filed with the plat of the area.
3. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
4. Prior to publishing the ordinance making the zone change official, the applicant shall provide a revised PO site plan drawing for review and consideration of approval by the Planning Director. The revised PO site plan drawing shall include all provisions to the approved PO. The site shall be developed and operated in conformance with the approved PO site plan and other applicable regulations unless specifically modified by this PO.
5. The uses allowed within this PO shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this P O. Any cutting of stone shall be done indoors.
6. A 35 foot building setback shall be required along the perimeter of the subject site. No trash receptacles, parking, lighting, outdoor storage or any structure will be allowed in the setbacks. The setbacks will be shown on the PO site plan drawing.
7. Screening per UZC CUP requirements and landscaping per the Landscape Ordinance shall be installed. All existing landscaping located within the 35-foot setbacks shall remain. A landscape prepared by a licensed Kansas Landscape Architect will be submitted for approval prior to issuance of certificate of occupancy and shall comply with the Landscape Ordinance. If all required screening or landscaping is not installed prior to occupancy, a financial guarantee shall be provided for the necessary screening, landscaping and watering equipment. A landscape plan shall include how the landscaping shall be maintained. All planting must be done within a year of approval by the governing body.
8. Up to 20-foot tall (including the base) pole lighting standards are allowed. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. All lights on buildings will be directed down and away from residential development.
9. All trash dumpsters and loading dock areas will have solid screening around them.
10. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code.
11. No outside speakers/amplification.
12. All off street parking and parking areas shall have a surface in accordance with the Wichita – Sedgwick County Unified Zoning Code.
13. A vehicular and pedestrian circulation plan shall be prepared for review and approval and will include cross lot access.
14. No occupancy permits will be issued until the site is serviced by municipal water and sewer.
15. All proposed new utilities will be installed underground.

16. All drives and access thorough the site will be surfaced per the standards of the City of Wichita. Fire must approve circulation and all fire lanes must remain clear.
17. All buildings/structures must meet City Codes and permitting requirements. All buildings will be of similar materials and design.
18. Signs: All signs must be a monument type as permitted in the General Commercial (“GC”) zoning district. No portable or flashing signs (unless telling the time, temperature or other public messages) shall be permitted on the subject property. No building signs shall be permitted along the face of any building that abuts a residential zoning district. Wall display signs are limited to 25% of the wall area. Each parcel is allowed at least one free standing 170-sqaure foot sign per arterial frontage. No offsite signs, unless approved by the MAPC or the governing body after a review of the proposed sign.
19. All outside storage of sand and dirt shall have three sided walls or fences to prevent the wind from blowing these materials around and from the site.
20. If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.
21. All uses permitted by right in the GC district are permitted.
22. The following development standards shall apply:
  - Maximum Building Height = 35 feet
  - Maximum Coverage = 30%
  - Maximum Gross Floor Area = 35%

Properties abutting the east and west sides of the site are zoned GC. The abutting 3.4-acre GC zoned eastern property is currently vacant, with an unoccupied building and scattered remnants of piles of rock, gravel, stone, dirt and brick. Haphazard piles of pallets, some outdoor shelving, some light trucks and other materials are also located on the site; the Suburban Equipment Sales Addition, platted 11-14-1978. A monopole is also located on the Suburban Equipment Sales Addition property; CON2000-54. Next to this developed but vacant property, is a 6.15-acre GC zoned tree farm, whose south and east sides abut I-35; the Mattingly Addition, platted 07-15-1979. The abutting 7.5-acre GC zoned western property has the CUP DP-117 overlay, and is currently developed with a self storage warehouse. The next western property is the (+) 80-acre GC and LI Limited Industrial (“LI”) zoned CUP DP- 196, anchored with large box retailers Wal-Mart and Lowes, smaller retail, both sit down and fast food restaurants and a bank. A LI zoned car dealership is also in this western property, but sits outside CUP DP- 196. North of the site, across Kellogg are large, undeveloped LC, SF-5 and SF-20 Single-Family Residential (“SF-20”) zoned properties. There are also small GC and LC zoned car repair shops, retail, car dealerships and undeveloped or vacant sites. South of the site across I-35 is a SF-5 zoned single-family neighborhood, an elementary school and undeveloped GC zoned land.

**Analysis:** District Advisory Board II (DAB II) considered this request at their March 5, 2012, meeting and unanimously recommended approval of the GC zoning with the provisions of PO #267 and platting within a year of approval by the Governing body. No one spoke against the requested rezoning at the DAB meeting. At the Metropolitan Area Planning Commission (MAPC) meeting held March 15, 2012, the MAPC voted (7-0-1) to recommend approval, as a consent item, of the requested GC zoning with the provisions of PO #267 and platting within a year of approval by the Governing body. At the MAPC meeting no one spoke against the requested rezoning. No valid protests were received during the two week protest period.

**Financial Considerations:** There are no financial considerations in regards to the zoning request.

**Goal Impact:** The application promotes Economic Vitality.

**Legal Considerations:** The ordinance has been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:**

(1) Adopt the findings of the MAPC and approve the zone change, subject to the additional recommended provisions of Protective Overlay PO #267 and subject to the condition of platting; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council (simple majority required).

**Attachments:**

- Ordinance
- MAPC Minutes



ORDINANCE NO. 49-259

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

**SECTION 1.** That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

**Case No. ZON2012-00005**

Zone change from SF-5 Single-Family Residential (“SF-5”) and LC Limited Commercial (“LC”) to GC General Commercial (“GC”) on an approximately 10.34-acre property described as:

The East half of the Northwest quarter of the Northeast quarter EXCEPT beginning at the Northeast corner of the Northwest quarter of the Northeast quarter, thence South 40 rods, thence West 16 rods, thence North 40 rods, thence East to beginning and EXCEPT .75 acres deeded for state highway, and EXCEPT that part lying Southeast of the Kansas Turnpike Authority right of way, Section 27, Township 27, Range 2 East of the 6th Principle Meridian, Wichita, Sedgwick County, Kansas; generally located between Kellogg Street/US 54 and I-35 and west of 127<sup>th</sup> Street East.

**SUBJECT PLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNING BODY AND THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #267:**

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land for development and be binding upon present land owners, their successors and assigns and their lessees unless amended.
2. If multiple ownership is anticipated an owners association agreement providing for the maintenance of reserves, open spaces, internal drives, parking areas, drainage improvements, etc, shall be filed with the plat of the area.
3. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
4. Prior to publishing the ordinance making the zone change official, the applicant shall provide a revised PO site plan drawing for review and consideration of approval by the Planning Director. The revised PO site plan drawing shall include all provisions to the approved PO. The site shall be developed and operated in conformance with the approved PO site plan and other applicable regulations unless specifically modified by this PO.
5. The uses allowed within this PO shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this PO. Any cutting of stone shall be done indoors.
6. A 35 foot building setback shall be required along the perimeter of the subject site. No trash

- receptacles, parking, lighting, outdoor storage or any structure will be allowed in the setbacks. The setbacks will be shown on the PO site plan drawing.
7. Screening per UZC CUP requirements and landscaping per the Landscape Ordinance shall be installed. All existing landscaping located within the 35-foot setbacks shall remain. A landscape prepared by a licensed Kansas Landscape Architect will be submitted for approval prior to issuance of certificate of occupancy and shall comply with the Landscape Ordinance. If all required screening or landscaping is not installed prior to occupancy, a financial guarantee shall be provided for the necessary screening, landscaping and watering equipment. A landscape plan shall include how the landscaping shall be maintained. All planting must be done within a year of approval by the governing body.
  8. Up to 20-foot tall (including the base) pole lighting standards are allowed. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. All lights on buildings will be directed down and away from residential development.
  9. All trash dumpsters and loading dock areas will have solid screening around them.
  10. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code
  11. No outside speakers/amplification
  12. All off street parking and parking areas shall have a surface in accordance with the Wichita – Sedgwick County Unified Zoning Code.
  13. A vehicular and pedestrian circulation plan shall be prepared for review and approval and will include cross lot access.
  14. No occupancy permits will be issued until the site is serviced by municipal water and sewer.
  15. All proposed new utilities will be installed underground.
  16. All drives and access thorough the site will be surfaced per the standards of the City of Wichita. Fire must approve circulation and all fire lanes must remain clear.
  17. All buildings/structures must meet City Codes and permitting requirements. All buildings will be of similar materials and design.
  18. Signs: All signs must be a monument type as permitted in the General Commercial (“GC”) zoning district. No portable or flashing signs (unless telling the time, temperature or other public messages) shall be permitted on the subject property. No building signs shall be permitted along the face of any building that abuts a residential zoning district. Wall display signs are limited to 25% of the wall area. Each parcel is allowed at least one free standing 170-sqaure foot sign per arterial frontage. No offsite signs, unless approved by the MAPC or the governing body after a review of the proposed sign.
  19. All outside storage of sand and dirt shall have three sided walls or fences to prevent the wind from blowing these materials around and from the site.
  20. If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.
  21. All uses permitted by right in the GC district are permitted.
  22. The following development standards shall apply:
    - Maximum Building Height = 35 feet
    - Maximum Coverage = 30%
    - Maximum Gross Floor Area = 35%

**SECTION 2.** That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

**SECTION 3.** That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

\_\_\_\_\_  
Carl Brewer - Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form: \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney

## EXCERPT MINUTES OF THE MARCH 15, 2012 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

COMMISSIONER JOHNSON recused himself from the item.

**Case No.: ZON2012-05** – Alta Marie Thompson Rev. Trust (Owner); Absolute Natural Stone (Applicant) and K.E. Miller Engineering, PA, c/o Kirk Miller (Agent) request a City zone change from SF-5 Single-Family Residential and LC Limited Commercial to GC General Commercial on property described as:

The East half of the Northwest quarter of the Northeast quarter EXCEPT beginning at the Northeast corner of the Northwest quarter of the Northeast quarter, thence South 40 rods, thence West 16 rods, thence North 40 rods, thence East to beginning and EXCEPT .75 acres deeded for state highway, and EXCEPT that part lying Southeast of the Kansas Turnpike Authority right of way, Section 27, Township 27, Range 2 East of the 6th Principle Meridian, Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting GC General Commercial (“GC”) zoning for the LC Limited Commercial (“LC”) and SF-5 Single-Family Residential (“SF-5”) zoned, undeveloped 10-acre tract. The applicant sells natural rock, used primarily in landscaping. The rocks are stored outside and may be cut per job order at the site. As described to staff, the applicant’s business fits into the Unified Zoning Code’s (“UZC”) definition of “Construction Sales and Service”; (See Sec. II-B, 3.n of the Unified Zoning Code (“UZC”). Construction Sales and Service is permitted by right in the GC zoning district. The applicant’s current GC zoned site is located west of Greenwich Road and on the south side of Kellogg Road/US 54/400 (Kellogg), 10901 E. Kellogg Street. Upcoming improvements to Kellogg from Webb to Greenwich Roads will reduce the size of their current 2.3-acre site. The applicant is looking at the subject 10-acre site as a possible place to move their business. In lieu of a Community Unit Plan (“CUP”) the applicant has provided a proposed Protective Overlay (“PO”). (Sec. III-C, 2.b of the UZC permits the substitution of a PO for a CUP.)

The applicant’s proposed PO includes: a list of prohibited uses, the UZC’s minimum setbacks for the GC zoning district, as well as landscaping, parking and signage per the GC zoning district. The proposed PO also refers to any transfer of title not voiding the provisions of the PO, minimum language for architectural control and the responsibility of any and all owners association, and states that all drainage and easements will be determined at the time of platting. The applicant’s site plan shows one parcel with an office, parking and display area facing the Kellogg. The site plan also shows a ‘billboard’ along the Kellogg frontage. A billboard is defined in Title 24, the City of Wichita Sign Code as three types of “off-site signage.” (There are another two billboards shown along the I-35 frontage.) On the applicant’s site plan, a garden and landscaping yard is located behind and along the east side of the office area, going up to Kellogg. A larger building housing a stone cutting area, warehouse, shop and office is located on the south end of the site, up against I-35.

Properties abutting the east and west sides of the site are zoned GC. The abutting 3.4-acre GC zoned eastern property is currently vacant, with an unoccupied building and scattered remnants of piles of rock, gravel, stone, dirt and brick. Haphazard piles of pallets, some outdoor shelving, some light trucks and other materials are also located on the site; the Suburban Equipment Sales Addition, platted 11-14-1978. A monopole is also located on the Suburban Equipment Sales Addition property; CON2000-54. Next to this developed but vacant property, is a 6.15-acre GC zoned tree farm, whose south and east sides abut I-35; Mattingly Add., 07-15-1979. The abutting GC 7.5-acre zoned western property has the CUP DP-117 overlay, and is currently developed with a self storage warehouse. The next western property is the (+)

80-acre GC and LI Limited Industrial (“LI”) zoned CUP DP- 196, anchored with large box retailers Wal-Mart and Lowes, smaller retail, both sit down and fast food restaurants and a bank. A LI zoned car dealership is also in this western property, but sits outside CUP DP- 196. North of the site, across Kellogg are large, undeveloped LC, SF-5 and SF-20 Single-Family Residential (“SF-20”) zoned properties. There are also small GC and LC zoned small car repair shops, small retail, car dealerships and undeveloped and vacant sites located in the area. South of the site across I-35 is are SF-5 zoned single-family neighborhood, an elementary school and undeveloped GC zoned land.

**CASE HISTORY:** The site was annexed into the city between 1961 and 1970. District Advisory Board II (DAB II) considered this request at their March 5, 2012 meeting and voted unanimously to approve the requested zoning and the PO.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5, SF-20, LC, GC	Kellogg Street/US 54/400, undeveloped and vacant land, auto repair, car dealerships
SOUTH:	SF-5	I-35, single-family residential subdivision, elementary school, undeveloped land
EAST:	GC	Vacant retail/construction sales and service, tree farm, I-35
WEST:	GC, LI	Self storage, large box retails, retail, fast food restaurants sit down restaurants, bank, car dealership

**PUBLIC SERVICES:** Kellogg Street/US 54/400 (Kellogg) is a paved, four-lane US Highway, with turn lanes, a grassy median ditch and dirt frontage roads at this location. The dirt frontage road is the only way in and out of the site. Improvements to Kellogg have been ongoing for most of the past decade, with the latest improvements in this area being over a mile west of this area, between Rock Road and Webb Road. Upcoming improvements to Kellogg from Webb to Greenwich Roads have caused the applicant to look at this site as a possible place on which to move their business. Traffic counts for this section of Kellogg are between 32,888 – 26,805 average trips per day. Public Water appears to be available to the site; however public sewer will need to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide depicts the site as being appropriate for “Regional Commercial.” The Regional Commercial category encompasses major destination areas that contain concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of regional traffic. Typically they are located in close proximity to freeways or major arterials and include such uses as major retail malls, major car dealerships and big box retail. Many of the uses permitted in the GC zoning district, resemble the Guide’s “Regional Commercial” category. The applicant’s 10-acre site is large enough to develop for a regional market and its location off of a US Highway/major arterial meets the location criteria.

As described the applicant’s business fits into the Unified Zoning Code’s (“UZC”) definition of “Construction Sales and Service”; Sec. II-B, 3.n. Construction Sales and Service is permitted by right in the GC zoning district. The applicant declined to provide a CUP, but has provided a proposed a PO for their 10-acre site; Sec. III-C, 2.b. The most recent commercial development of 6-acres or more in the area have CUPs; CUP DP-117 and CUP DP- 196. In keeping with the recent commercial development standards of the area, Staff has used portions of these abutting and adjacent CUP standards for the recommended PO.

**RECOMMENDATION:** The requested GC zoning is the prevalent zoning in the area. The amount of outside display and storage of the site’s landscaping stone and other landscaping materials may be a new use for the area, although the remnant materials on the western abutting Suburban Equipment Sales

Addition site suggest otherwise. Staff recommends **APPROVAL** of the proposed GC zoning subject to the following conditions:

**PLATTING WITHIN A YEAR OF APPROVAL BY THE GOVERNING BODY AND TO THE FOLLOWING PROVISIONS OF A PROTECTIVE OVERLAY (“PO”) DISTRICT:**

1. The transfer of title on all or any portion of the land included in the development does not constitute a termination of the PO or any portion thereof, but said PO shall run with the land for development and be binding upon present land owners, their successors and assigns and their lessees unless amended.
2. If multiple ownership is anticipated an owners association agreement providing for the maintenance of reserves, open spaces, internal drives, parking areas, drainage improvements, etc, shall be filed with the plat of the area.
3. Certain development requirements including, but not limited to, drainage, access, easements, and road improvements (including guarantees and dedication of right-of-way) shall be determined at the time platting.
4. Prior to publishing the ordinance making the zone change official, the applicant shall provide a revised PO site plan drawing for review and consideration of approval by the Planning Director. The revised PO site plan drawing shall include all provisions to the approved PO. The site shall be developed and operated in conformance with the approved PO site plan and other applicable regulations unless specifically modified by this PO.
5. The uses allowed within this PO shall be confined to those listed within the parcel descriptions. Any additional uses will require an adjustment or an amendment to this P O. Any cutting of stone shall be done indoors.
6. A 35 foot building setback shall be required along the perimeter of the subject site. No trash receptacles, parking, lighting, outdoor storage or any structure will be allowed in the setbacks. The setbacks will be shown on the PO site plan drawing.
7. Screening per UZC CUP requirements and landscaping per the Landscape Ordinance shall be installed. All existing landscaping located within the 35-foot setbacks shall remain. A landscape prepared by a licensed Kansas Landscape Architect will be submitted for approval prior to issuance of certificate of occupancy and shall comply with the Landscape Ordinance. If all required screening or landscaping is not installed prior to occupancy, a financial guarantee shall be provided for the necessary screening, landscaping and watering equipment. A landscape plan shall include how the landscaping shall be maintained. All planting must be done within a year of approval by the governing body.
8. Up to 20-foot tall (including the base) pole lighting standards are allowed. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. All lights on buildings will be directed down and away from residential development.
9. All trash dumpsters and loading dock areas will have solid screening around them.
10. Roof top mechanical equipment shall be screened from ground level view, per Wichita – Sedgwick County Unified Zoning Code
11. No outside speakers/amplification
12. All off street parking and parking areas shall have a surface in accordance with the Wichita – Sedgwick County Unified Zoning Code.
13. A vehicular and pedestrian circulation plan shall be prepared for review and approval and will include cross lot access.
14. No occupancy permits will be issued until the site is serviced by municipal water and sewer.

15. All proposed new utilities will be installed underground.
16. All drives and access thorough the site will be surfaced per the standards of the City of Wichita. Fire must approve circulation and all fire lanes must remain clear.
17. All buildings/structures must meet City Codes and permitting requirements. All buildings will be of similar materials and design.
18. Signs: All signs must be a monument type as permitted in the General Commercial ("GC") zoning district. No portable or flashing signs (unless telling the time, temperature or other public messages) shall be permitted on the subject property. No building signs shall be permitted along the face of any building that abuts a residential zoning district. Wall display signs are limited to 25% of the wall area. Each parcel is allowed at least one free standing 170-sqaure foot sign per arterial frontage. No offsite signs, unless approved by the MAPC or the governing body after a review of the proposed sign.
19. All outside storage of sand and dirt shall have three sided walls or fences to prevent the wind from blowing these materials around and from the site.
20. If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the zoning is null and void.
21. All uses permitted by right in the GC district are permitted.
22. The following development standards shall apply:  
 Maximum Building Height = 35 feet  
 Maximum Coverage = 30%  
 Maximum Gross Floor Area = 35%

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties abutting the east and west sides of the site are zoned GC. The abutting 3.4-acre GC zoned eastern property is currently vacant, with an unoccupied building and scattered remnants of piles of rock, gravel, stone, dirt and brick. Haphazard piles of pallets, some outdoor shelving, some light trucks and other materials are also located on the site; Suburban Equipment Sales Addition, platted 11-14-1978. A monopole is also located on this abutting property; CON2000-54. Next to this vacant property is a 6.15-acre GC zoned tree farm, whose south and east sides abut I-35; Mattingly Addition, 07-15-1979. The abutting GC 7.5-acre zoned western property has the CUP DP-117 overlay and is currently developed with a self storage warehouse. The next western property is the (+) 80-acre GC and LI Limited Industrial ("LI") zoned CUP DP- 196, anchored with large box retailers Wal-Mart and Lowes, smaller retail, both sit down and fast food restaurants and a bank. A LI zoned car dealership is also in this western property, but sits outside CUP DP- 196. North of the site, across Kellogg are large, undeveloped LC, SF-5 and SF-20 Single-Family Residential ("SF-20") zoned properties. There are also small GC and LC zoned small car repair shops, small retail, car dealerships and undeveloped and vacant sites in the area. South of the site across I-35 are SF-5 zoned single-family neighborhood, an elementary school and undeveloped GC zoned land.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC and SF-5 which permits office uses and local types of commercial development with limited outdoor display. The zoning also permits residential uses and other compatible uses such as churches, schools, parks or libraries. The GC zoning is in character with the area (GC zoning is the dominant zoning in the area) and permits the outdoor display and storage the applicant's

business requires. Because of the areas dominate commercial and industrial zoning, the site's SF-5 zoning is out of character and is less likely to develop as single-family residential.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Staff's proposed P-O is in line with the most recent commercial development standards of the area. The most recent commercial development of 6-acres or more in the area have CUPs; CUP DP-117 and CUP DP- 196. Staff has used portions of these abutting and adjacent CUP standards for the PO, to ensure the proposed development will be similar to current/more recent commercial development in the area.
4. Length of time the property has been vacant: The property currently does not have any development and aerials back to 1997 show development on the site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts the site as being appropriate for "Regional Commercial." The Regional Commercial category encompasses major destination areas that contain concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of regional traffic. Typically they are located in close proximity to freeways or major arterials and include such uses as major retail malls, major car dealerships and big box retail. Many of the uses permitted in the GC zoning district, resemble the Guide's "Regional Commercial" category. The applicant's 10-acre site is large enough to develop for a regional market and its location off of a US Highway/major arterial meets the location criteria.

As described the applicant's business fits into the Unified Zoning Code's ("UZC") definition of "Construction Sales and Service"; Sec. II-B, 3.n. Construction Sales and Service is permitted by right in the GC zoning district. The applicant declined to provide a CUP, but has provided a proposed a PO for their 10-acre site; Sec. III-C, 2.b. The most recent commercial development of 6-acres or more in the area have CUPs; CUP DP-117 and CUP DP- 196. In keeping with the recent commercial development standards of the area, Staff has used portions of these abutting and adjacent CUP standards for the PO.

6. Impact of the proposed development on community facilities: Developing the site's 10-acres of as permitted with the proposed GC zoning and PO will impact all community facilities, as did the previous developments in the area, such as the (+) 80-acre GC and LI Limited Industrial ("LI") zoned CUP DP- 196.

**MOTION:** To approve subject to staff recommendation.

**DENNIS** moved, **MCKAY** seconded the motion, and it carried (7-0-1). **JOHNSON** – Abstained.



City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** SUB2008-00024 -- Plat of Glenview Addition located west of Greenwich and south of 21<sup>st</sup> Street North. (District II)

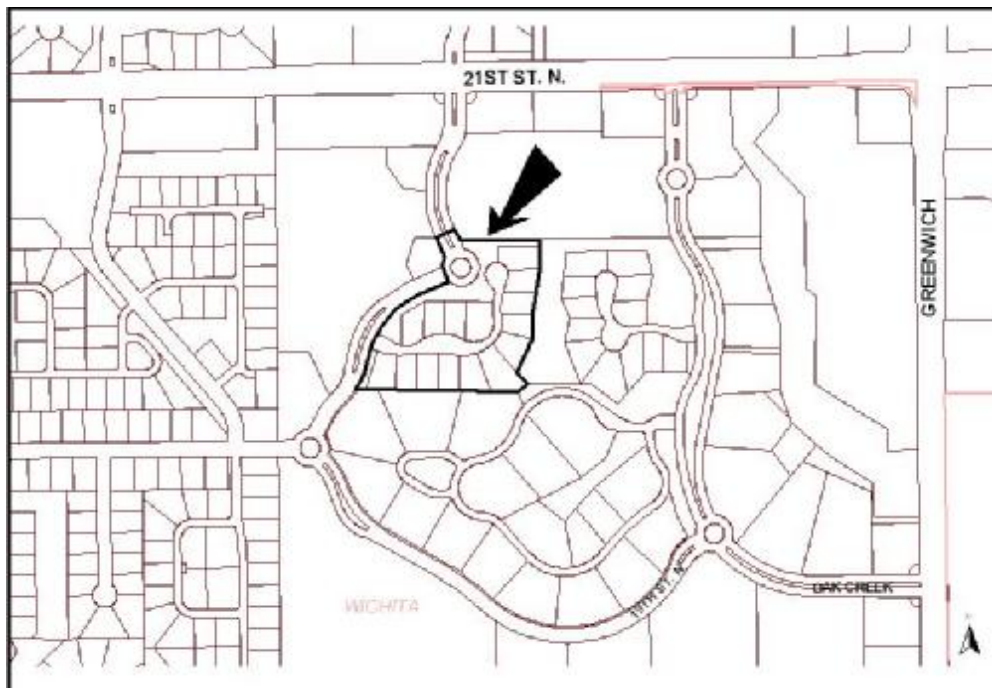
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (12-0)



**Background:** The site, consisting of 16 lots on 7.5 acres, is a replat of a portion of the Oak Creek 3<sup>rd</sup> Addition. The site is located within Wichita and is zoned SF-5 Single-family Residential and GO General Office. The site is subject to the Oak Creek Community Unit Plan (CUP2004-00009/DP-274).

**Analysis:** The applicant has submitted 100 percent Petitions and a Certificate of Petitions for water, sewer and drainage improvements. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance of the reserves including the private street. A financial guarantee has been provided to guarantee the construction of the private street. The site is within the noise impact area of McConnell Air Force Base; therefore the applicant has submitted an Avigational Easement and Restrictive Covenant to assure that adequate construction methods will be used to minimize the effects of noise pollution. The applicant has submitted a Notice of Community Unit Plan (CUP) Certificate identifying the approved CUP and special conditions for development.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Goal Impact:** Approval of the plat will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

**Legal Considerations:** The Certificate of Petitions, Restrictive Covenants, Avigational Easement, Notice of CUP and Resolutions have been approved as to form by the Law Department and will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the documents and plat, authorize the necessary signatures and adopt the Resolutions.

**Attachments:** Certificate of Petitions  
Restrictive Covenants  
Avigational Easement  
Notice of Community Unit Plan  
Resolutions

COPY

**CERTIFICATE**

CITY OF WICHITA       )  
SEDGWICK COUNTY     ) SS  
STATE OF KANSAS     )

We, Slawson Commercial Properties, L.L.C. the owners of all real property within Glenview Addition do hereby certify that petitions for the following improvements have been submitted to the City Council of the City of Wichita, Kansas:

- |                              |                      |
|------------------------------|----------------------|
| 1. Water Distribution System | 3. Storm Water Drain |
| 2. Sanitary Sewer            |                      |

As a result of the above mentioned petitions for improvements, lots or portions thereof within Glenview Addition may be subject to special assessments assessed thereto for the cost of constructing the above described improvements.

Dated at Wichita, Kansas, this 15 day of March, 2012.

SLAWSON COMMERCIAL PROPERTIES, L.L.C.

By: [Signature]

David A. Hambrick, Vice President

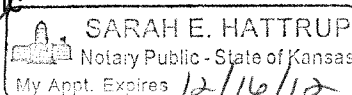
STATE OF KANSAS       )  
                                  ) SS  
SEDGWICK COUNTY     )

Personally appeared before me a notary public in and for the County and State aforesaid David A. Hambrick, Vice President of Slawson Commercial Properties, L.L.C., to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15<sup>th</sup> day of March, 2012.

[Signature]  
Notary Public

My Appointment Expires: 12/16/2012



COPY

### RESTRICTIVE COVENANT

This covenant, executed this 15<sup>th</sup> day of March, 2012.

WITNESSETH: That,

WHEREAS, the undersigned is in the process of platting certain real property to be known as Glenview, an Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the Wichita-Sedgwick County Metropolitan Area Planning Commission regarding the establishment of an owners' association, providing for the ownership and maintenance of the reserves being platted, parking on Glengate Circle and Chateau Parkway the maintenance of the "Parking Strips" located along Chateau Parkway and the ownership and maintenance of the private street in Reserve "A".

NOW, THEREFORE, the undersigned does hereby subject Glenview, an Addition to Wichita, Sedgwick County, Kansas, to the following covenants and restrictions:

1. At such time as the said property shall become developed by erection of improvements thereon, the undersigned agrees to cause an association to be formed to provide for the care, maintenance, and upkeep of the reserves, common areas, parking strips, private streets and drainage improvements.
2. The reserves located in said addition will be conveyed to the association at such time as the project is sold to or occupied by owners or tenants other than the undersigned.
3. Until said reserves are so conveyed, the ownership and maintenance of the reserves, together with the maintenance of the parking strips, shall be by the undersigned.
4. The reserves located in said addition will become part of a Master Owners Association to be developed for the Oak Creek Addition to Wichita, Sedgwick County, Kansas.

5. In the event that the undersigned or the association, its successors or assigns, shall fail at any time to maintain within the reserves or common areas or fail in any manner to fulfill their obligations relating to the reserves or common areas, the City of Wichita may serve a written Notice of Delinquency upon the undersigned or the association setting forth the manner in which the undersigned or the association has failed to fulfill its obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled and shall grant twenty.

(20) days within which the undersigned or the association may fulfill the obligations, or if such obligation cannot reasonably be fulfilled in 20 days, such requirement shall be satisfied if efforts for fulfillment have been commenced within said 20-day period and are diligently prosecuted to completion. If said obligation is not fulfilled within the time specified, the City of Wichita, in order to preserve the taxable value of the properties within the Addition and to prevent the reserves or common areas, from becoming a nuisance, may enter upon said reserves or common areas with prior written notice to the owner(s) of such property, and perform the obligations listed in the Notice of Delinquency. All costs incurred by the City of Wichita in carrying out the obligations of the undersigned may be assessed against the reserves in the same manner as provided by law for such assessments and said assessments may be established as liens upon said reserves. Should the undersigned or the association, its successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice are not proper for any reason, may within the twenty-day period to be provided in said notice, apply for a hearing before the City Council to appeal said assessments and any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.

6. This covenant is binding on the owners, its successors and assigns and is a covenant running with the land and is binding on all successors in title to the above-described property.

7. The covenants, conditions, restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent to the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

8. There shall be no parking on either side of Chateau Parkway.

9. No retaining wall, fence, earth berm, or mass planting shall be paced or permitted within the 15 foot street, drainage and utility easements adjacent to the public streets being platted, nor shall any other planting be permitted therein which would materially interfere with the flow of storm water run-off through said easement. Any plantings proposed within this easement shall be reviewed by the City Forester prior to installation. Any change of grade is prohibited.

EXECUTED the day and year first above written.


SLAWSON COMMERCIAL PROPERTIES, L.L.C.

By:   
David A. Hambrick, Vice President

STATE OF KANSAS    )  
                                  ) SS  
SEDGWICK COUNTY )

Personally appeared before me a notary public in and for the County and State aforesaid David A. Hambrick, Vice President of Slawson Commercial Properties, L.L.C., to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15<sup>th</sup> day of March, 2012.

  
Notary Public

My Appointment Expires: 12/16/2012



Approved as to form:

  
Gary E. Rebenstorf, Director of Law

COPY

### RESTRICTIVE COVENANT

This covenant, executed this 15<sup>th</sup> day of March, 2012.

WITNESSETH: That,

WHEREAS, the undersigned is in the process of platting certain real property to be known as Glenview, an Addition to Wichita, Sedgwick County, Kansas; and


WHEREAS, Grantors are the owners of Lots 1 thru 16, Block 1, and Reserves "A" thru "E", Glenview Addition to Wichita, Sedgwick County, Kansas, which property is located near McConnell Air Force Base and is accordingly subject to considerable noise from the operation of aircraft, and is exposed at times to aircraft noise which may infringe upon a resident's enjoyment of property and may, depending upon the degree of acoustical treatment of the dwelling, affect his health and/or well being, and

WHEREAS, the City of Wichita in connection with approval of the plat of said addition considers it to be in the public interest to require any buildings constructed on said addition to be designed and constructed giving proper consideration to noise pollution in the area;

NOW, THEREFORE, the undersigned does hereby subject Glenview, an Addition to Wichita, Sedgwick County, Kansas, to the following covenants and restrictions:

1. Any building constructed on the premises shall be so designed and constructed as to minimize noise pollution in any such structure, giving due consideration to the use for which such structure is designed and built. This covenant is for the benefit of said property and shall run with the land and shall inure to the benefit of and pass with said property and shall apply to and bind the successors in interest and any owner thereof.
2. This covenant is binding on the owners, its successors and assigns and is a covenant running with the land and is binding on all successors in title to the above-described property.
3. The covenants, conditions, restrictions on the property created and established in this instrument may be waived, terminated, or modified only upon written consent to the City of Wichita. No such waiver, termination or modification shall be effective until such written consent is recorded in the office of the Register of Deeds for Sedgwick County, Kansas.

SLAWSON COMMERCIAL PROPERTIES, L.L.C.

By:   
David A. Hambrick, Vice President

Personally appeared before me a notary public in and for the County and State aforesaid David A. Hambrick, Vice President of Slawson Commercial Properties, L.L.C., to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

\_\_\_\_\_, 2012.  
  
 \_\_\_\_\_  
 Notary Public

**SARAH E. HATTRUP**  
Notary Public - State of Kansas  
My Appt. Expires 12/16/12

**Gary E. Rebenstorf, Director of Law**



COPY

### AVIGATIONAL EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That for a good and valuable consideration, the receipt of which is hereby acknowledged, Slawson Commercial Properties, L.L.C., (grantors), do hereby grant a permanent Avigational Easement to the public authority authorized by law to own and operate public-owned airports in Sedgwick County, Kansas, for the use of "Navigable Airspace" as defined by the Federal Aviation Act of 1958, over all of the following described real estate, to-wit:

Lots 1 thru 16, Block 1; and Reserves "A" thru "E", Glenview Addition to Wichita, Sedgwick County, Kansas.

By virtue of this easement, the grantors, for and on behalf of themselves and their respective successors in interest to any and all of the real property above described, waive as to the public authority only any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the "Navigable Airspace" granted herein. This easement does not grant or convey any surface use rights, nor is it to be construed to grant any right to private persons or corporations.

"Navigable Airspace" means air space above the minimum altitudes of flight prescribed by regulations issued under the Federal Aviation Act of 1958, Section 101 (24) 49 U.S. Code 1301, and shall include air space needed to insure safety in takeoff and landing of aircraft.

To have and to hold said easement forever.

IN WITNESS WHEREOF: The grantors have signed these presents this 15  
day of MARCH, 2012.

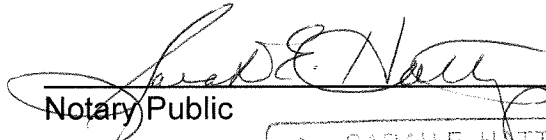
SLAWSON COMMERCIAL PROPERTIES, L.L.C.

By:   
David A. Hambrick, Vice President

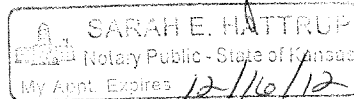
STATE OF KANSAS    )  
                                  ) SS  
SEDGWICK COUNTY )

Personally appeared before me a notary public in and for the County and State aforesaid David A. Hambrick, Vice President of Slawson Commercial Properties, L.L.C., to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
Notary Public

My Appointment Expires: 12/16/2012



Approved as to form: 

\_\_\_\_\_  
Gary E. Rebenstorf, Director of Law

COPY

### NOTICE OF COMMUNITY UNIT PLAN

Oak Creek Commercial Community Unit Plan (DP-274)

THIS NOTICE made this 15 day of March, 2012, by Slawson Commercial Properties, L.L.C., hereinafter called "Declarant".

#### WITNESSETH

WHEREAS, declarant is the owner of the following described property;


Lots 1 thru 16, Block 1; and Reserves "A" thru "E", Glenview Addition to Wichita, Sedgwick County, Kansas, and

WHEREAS, declarant desires to file notice that a Community Unit Plan approved by the Wichita City Council is on file with the Metropolitan Area Planning Department, located on the 10th Floor, City Hall, Wichita, Kansas, (316) 268-4421.

NOW, THEREFORE, the declarant hereby gives notice that the approved Oak Creek Commercial Community Unit Plan (DP-274) has placed restrictions on the use and requirements on the development of the above described real property. The Community Unit Plan shall be binding on the Owners, their heirs, successors, or assigns, and is a document running with the land and is binding on all successors in title to Lots 1 thru 16, Block 1; and Reserves "A" thru "E", Glenview, an Addition to Wichita, Sedgwick County, Kansas.

EXECUTED the day and year first written above

SLAWSON COMMERCIAL PROPERTIES, L.L.C.

By:   
David A. Hambrick, Vice President

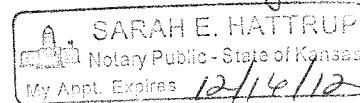
STATE OF KANSAS   )  
                                  ) SS  
SEDGWICK COUNTY)

Personally appeared before me a notary public in and for the County and State aforesaid David A. Hambrick, Vice President of Slawson Commercial Properties, L.L.C., to me personally known to be the same person(s) who executed the foregoing instrument of writing and said person(s) duly acknowledged the execution thereof.

Dated at Wichita, Kansas, this 15<sup>th</sup> day of March, 2012.

  
Notary Public

My Appointment Expires 12/16/2012



**Approved as to form:**

\_\_\_\_\_  
**Gary E. Rebenstorf, Director of Law**

First Published in the Wichita Eagle on April 13, 2012

RESOLUTION NO. 12-079

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING STORM WATER SEWER NO. 663 (SOUTH OF 21ST ST. NORTH, WEST OF GREENWICH) 468-84819 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING STORM WATER SEWER NO. 663 (SOUTH OF 21ST ST. NORTH, WEST OF GREENWICH) 468-84819 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve Storm Water Sewer No. 663 (south of 21st St. North, west of Greenwich) 468-84819.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Eighty Thousand Dollars (\$80,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2012, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GLENVIEW ADDITION  
Lots 1 through 16, Block 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis:

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: That Lots 1 through 16, Block 1, GLENVIEW ADDITION shall each pay 1/16 of the total cost payable by the improvement district.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of April, 2012.

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CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW

First Published in the Wichita Eagle on April 13, 2012

RESOLUTION NO. 12-080

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF LATERAL 13, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, WEST OF GREENWICH) 468-84818 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF LATERAL 13, MAIN 16, FOUR MILE CREEK SEWER (SOUTH OF 21ST ST. NORTH, WEST OF GREENWICH) 468-84818 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to construct Lateral 13, Main 16, Four Mile Creek Sewer (south of 21st St. North, west of Greenwich) 468-84818.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Sixty-Eight Thousand Dollars (\$68,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2012, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GLENVIEW ADDITION  
Lots 1 through 16, Block 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 16, Block 1, GLENVIEW ADDITION shall each pay 1/16 of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6 That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof,

considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10<sup>th</sup> day of April, 2012.

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CARL BREWER, MAYOR

ATTEST:

---

KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

---

GARY E. REBENSTORF  
DIRECTOR OF LAW



## RESOLUTION NO. 12-081

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING THE IMPROVEMENT OF WATER DISTRIBUTION SYSTEM NUMBER 448-90552 (SOUTH OF 21ST ST. NORTH, WEST GREENWICH) IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING WATER DISTRIBUTION SYSTEM NUMBER 448-90552 (SOUTH OF 21ST ST. NORTH, WEST GREENWICH) IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That it is necessary and in the public interest to improve Water Distribution System Number 448-90552 (south of 21st St. North, west of Greenwich).

SECTION 2. That the cost of said improvements provided for in Section 1 hereof is estimated to be Twenty-Nine Thousand Dollars (\$29,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after April 1, 2012, exclusive of the costs of temporary financing.

SECTION 3. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

GLENVIEW ADDITION

Lots 1 through 16, Block 1

SECTION 4. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a fractional basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis: Lots 1 through 16, Block 1, GLENVIEW ADDITION shall each pay 1/16 of the total cost of the improvement.

Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 5. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 6. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 7. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 8. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 9. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 10<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
CARL BREWER, MAYOR

ATTEST:

\_\_\_\_\_  
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
GARY E. REBENSTORF,  
DIRECTOR OF LAW

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** VAC2011-00032 - Request to vacate a portion of platted complete access control and portions of platted easements, generally located midway between McLean Boulevard and Seneca Street on the northeast side of Lincoln and Osage Streets. (District IV)

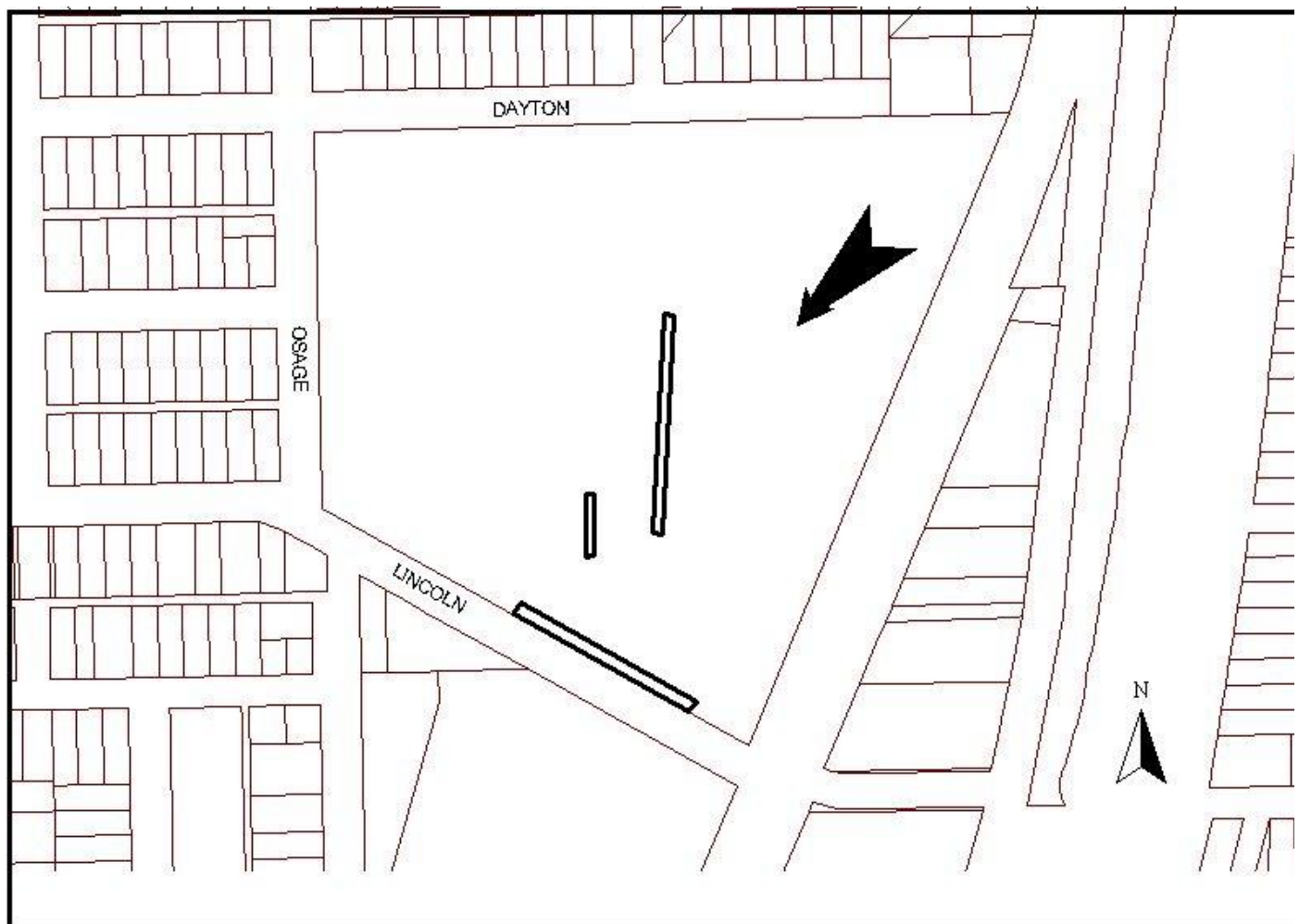
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Staff recommends approval of the vacation request

**MAPC Recommendation:** The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request



**Background:** The applicant proposes to vacate portions of two (2) platted 20-foot wide utility easements and a portion of platted complete access control located along the site's Lincoln Street frontage, all in Lot 1, Block A, West High School Addition. There are public water and sewer lines, manholes and drainage located in portions of the platted 20-foot wide utility easements. The applicant has approved private projects for the relocation of water (1633PPW), sewer (2118PPS) and drainage (0068PPD). The applicant has provided a recorded utility easement (Film – Page #29260897) to cover the relocated or abandoned utilities.

The site currently has a platted 50-foot wide point of access onto Lincoln Street. The applicant's request would allow two more 30-foot wide points of access onto Lincoln. The proposed points of access would be located on either side of the platted access onto Lincoln. There is no raised median in this portion of Lincoln, so these would be full movement drives. West High School playing fields are located opposite, across Lincoln, of the proposed drives. The West High School Addition was recorded with the Register of Deeds July 19, 2004.

**Analysis:** The MAPC voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

**Financial Considerations:** All improvements are to City standards and at the applicant's expense.

**Goal Impact:** The application supports the City's goal to ensure an Efficient Infrastructure.

**Legal Considerations:** The Law Department has reviewed and approved, as to form, the Vacation Order, the drive approach certificate and the dedication by separate instrument of access control. A certified copy of the Vacation Order, the drive approach certificate and the dedication by separate instrument of access control will be recorded with the Register of Deeds.

**Recommendation/Actions:** It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** A drive approach certificate and the dedication by separate instrument of access control.

**Agenda Item No. II-17**

**City of Wichita  
City Council Meeting  
April 10, 2012**

**TO:** Mayor and City Council

**SUBJECT:** VAC2011-00034 - Request to vacate a portion of a platted drainage easement, generally located south of 53<sup>rd</sup> Street North and west of Hillside Avenue. (District I)

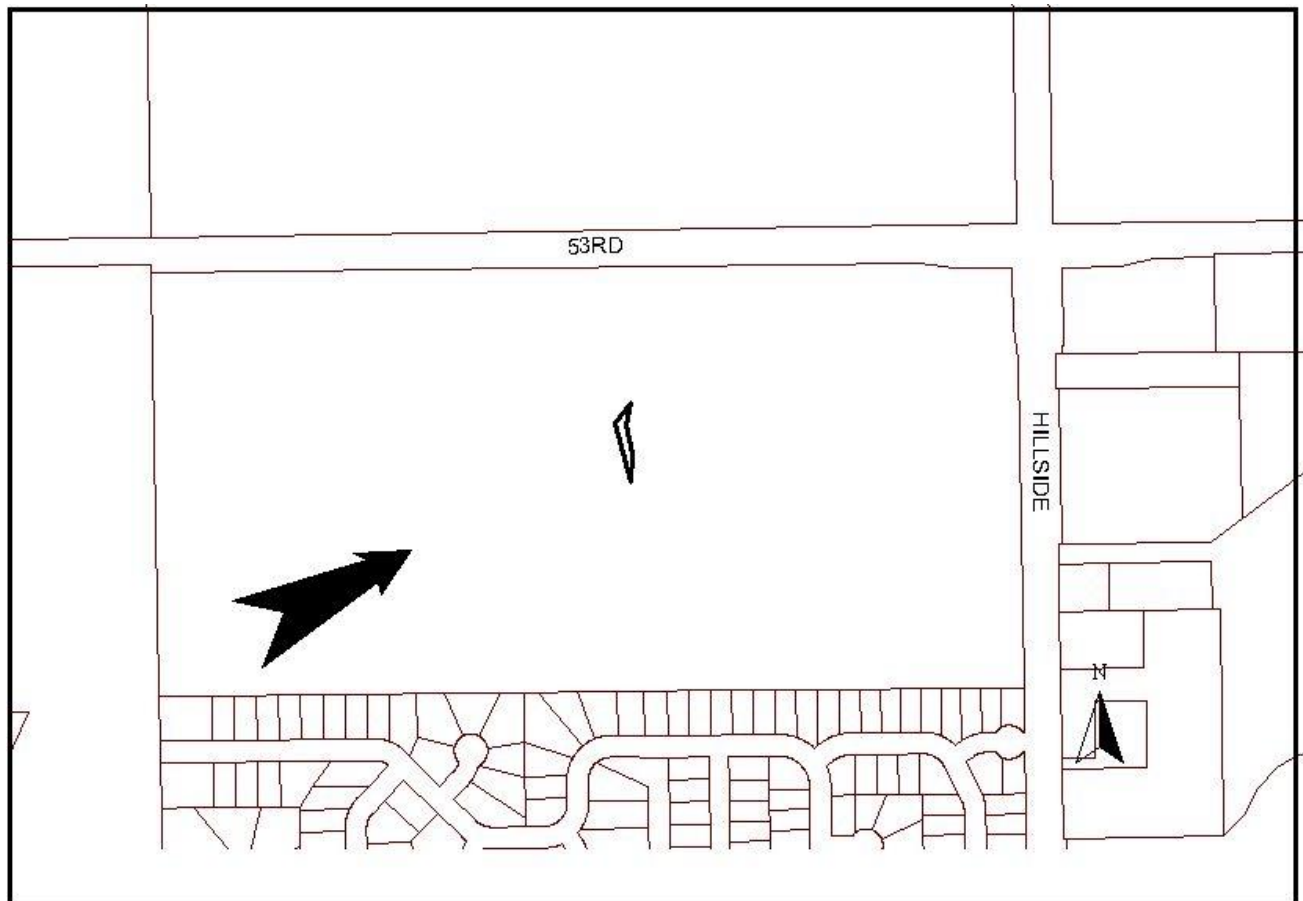
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Staff recommends approval of the vacation request.

**MAPC Recommendation:** The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



**Background:** The applicant proposes to vacate 165 feet of the east 30-feet of the platted 80-foot wide drainage easement located on Lot 1, Block 1, Wichita Heights High School Addition. The applicant will be expanding the bleachers along the west side of the football field into the area of the described easement. There is a surface drainage ditch in the described easement as well as outlets located under a bridge over the surface drainage ditch. Stormwater has approved the vacation request. There are no other utilities located within the described easement. The Wichita Heights High School Addition was recorded with the Register of Deeds January 8, 2003.

**Analysis:** The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

**Financial Considerations:** All improvements are to City standards and at the applicant's expense.

**Goal Impact:** The application supports the City's goal to ensure an Efficient Infrastructure.

**Legal Considerations:** The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

**Attachments:** None.

City of Wichita  
City Council Meeting  
April 10, 2012

**TO:** Mayor and City Council

**SUBJECT:** VAC2012-00004 – Request to vacate a portion of platted complete access control on property generally located west of Maize Road, on the north side of 21<sup>st</sup> Street North (District V)

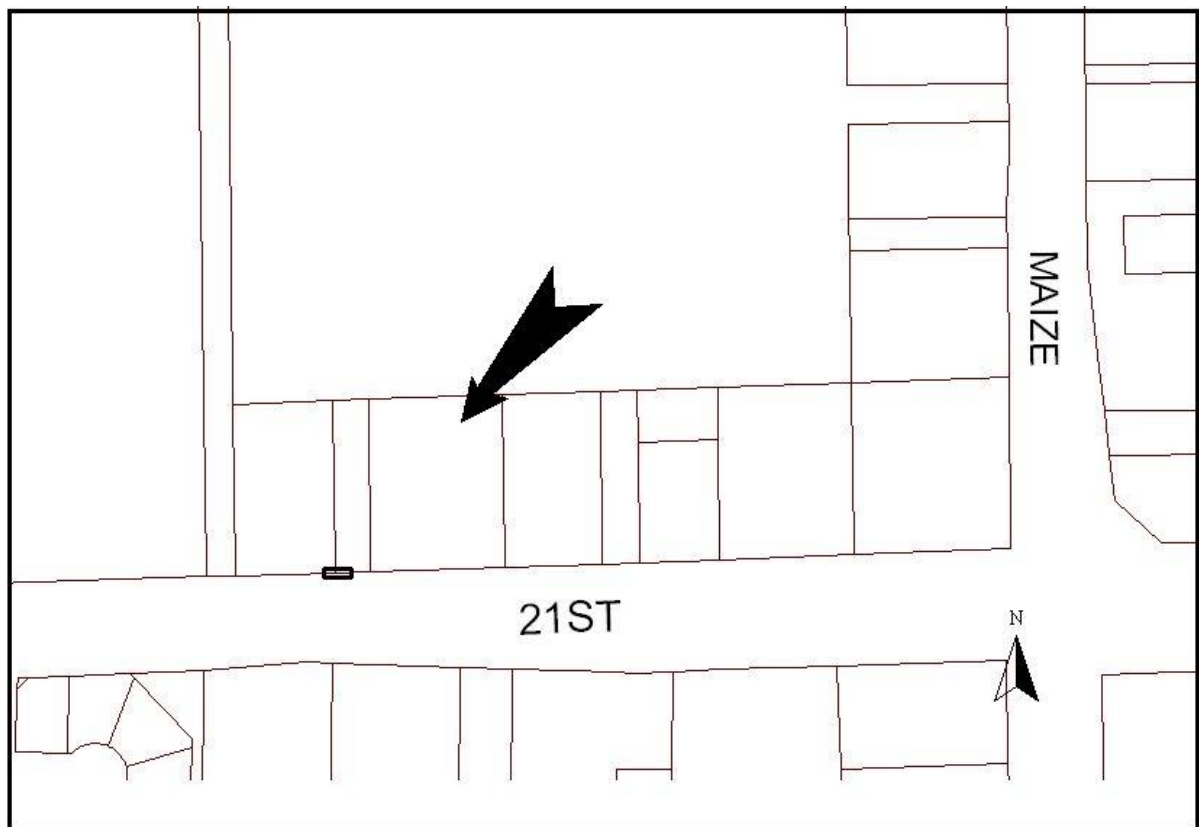
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Staff recommends approval of the vacation request.

**MAPC Recommendation:** The Metropolitan Area Planning Commission (MAPC) recommends approval of the vacation request.



**Background:** The applicant proposes one, right-in – right-out, 30-foot wide drive along the site's 21<sup>st</sup> Street North frontage. 21<sup>st</sup> Street is a four- lane arterial with additional center and outside turn lanes and a roll-over curbed median at this location. There currently are two permitted joint access drives on either side of the proposed drive. The proposed drive would be located approximately midway between the two previously permitted drives. The proposed drive lines up between two drives located south across 21st. There is public sewer in area of the vacation request, but no other utilities. The NewMarket Square Addition was recorded with the Register of Deeds April 27, 1998.

**Analysis:** The MAPC voted (12-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

**Financial Considerations:** All recommended improvements shall be to City standards and at the applicant's expense.

**Goal Impact:** The MAPC's recommendation supports the City's goal to ensure Efficient Infrastructure.

**Legal Considerations:** The Law Department has reviewed and approved, as to form, the Vacation Order. A certified copy of the Vacation Order will be recorded with the Register of Deeds.

**Recommendation/Actions:** Follow the recommendation of the Metropolitan Area Planning Commission to approve the Vacation Order and authorize the necessary signatures.

**Attachments:** None



**City of Wichita  
City Council Meeting  
April 10, 2012**

**TO:** Mayor and City Council

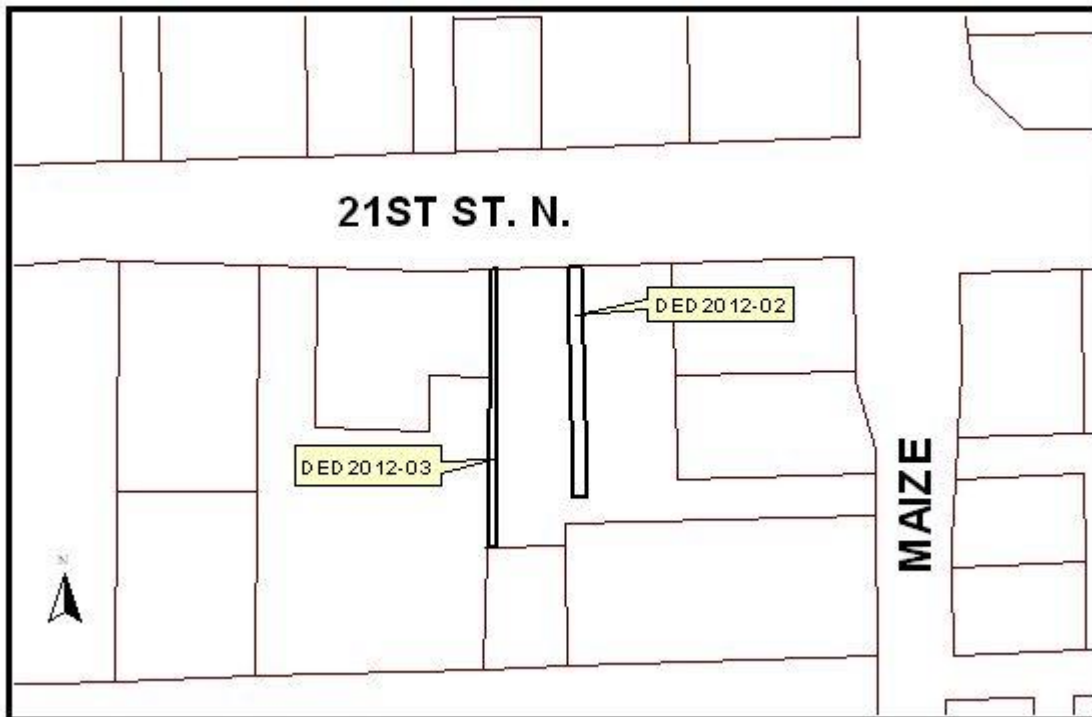
**SUBJECT:** DED2012-00002 Utility Easement Dedication and DED2012-00003 Utility Easement Dedication located on the southwest corner of 21<sup>st</sup> Street North and Maize Road.  
(District V)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA ACTION:** Planning (Consent)

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**Staff Recommendation:** Accept the Dedications.



**Background:** The Dedications are associated with Lot Split Case No. LSP2012-00003 (Pearson Farms 3<sup>rd</sup> Addition).

**Analysis:** The Dedications are for construction, operation and maintenance of public utilities.

**Financial Considerations:** There are no financial considerations associated with the dedications.

**Goal Impact:** Approval of the dedications will ensure Efficient Infrastructure through the integration of streets, utilities and other public facilities.

**Legal Considerations:** The Dedications have been approved as to form by the Law Department and will be recorded with the Register of Deeds by the applicant.

**Recommendations/Actions:** It is recommended that the City Council accept the Dedications.

**Attachment:**   Utility Easement Dedication  
                    Utility Easement Dedication

**UTILITY EASEMENT**

THIS INDENTURE MADE THIS 2<sup>nd</sup> day of March, 2012, between NW Centre, L.L.C. ("Grantor"), and the City of Wichita, a municipal corporation, ("Grantee").

**WITNESSETH:**

Grantor in consideration of the sum of \$1.00 and other valuable considerations, the receipt of which is hereby acknowledged, does hereby grant and convey unto Grantee a public easement for sanitary sewer and water over and across the following described real estate situated in Sedgwick County, Kansas, to-wit:

The Easterly 20 feet of the Northerly 329.04 feet of Lot 4, Block 1, Pearson Farms 3<sup>rd</sup> Addition to Wichita, Sedgwick County, Kansas, except that part of Lot 4, Block 1, Pearson Farms 3<sup>rd</sup> Addition to Wichita, Sedgwick County, Kansas, being described as follows: Beginning at the Northeast corner of said Lot 4; thence along the Easterly line of said Lot 4, South 01 Degrees 32 Minutes 49 Seconds East, a distance of 307.60 feet; thence North 88 Degrees 28 Minutes 51 Seconds East, a distance of 278.69 feet to a point on the Westerly right of way line of Maize Road; thence along the said Westerly right of way line, South 00 Degrees 00 Minutes 00 Seconds east, a distance of 60.02 feet to the Southeast corner of said Lot 4; thence along the Southerly line of said Lot 4, South 88 Degrees 28 Minutes 51 Seconds West, a distance of 407.86 feet; thence North 01 Degrees 32 Minutes 49 Seconds West, a distance of 38.50 feet; thence North 88 Degrees 28 Minutes 51 Seconds East, a distance of 3.58 feet; thence North 01 Degrees 26 Minutes 33 Seconds West, a distance of 329.04 feet to a point on the Northerly line of said Lot 4; thence along said Northerly line, North 88 Degrees 27 Minutes 11 Seconds East, a distance of 126.61 feet to the point of beginning.

to be used for the construction, installation, maintenance, operation and repair of public utilities, giving unto Grantee, its officers, agents employees, and other necessary personnel, the right of ingress and egress thereto and therefrom and the right to take thereon and remove therefrom all necessary tools, machinery, appurtenances, material and personnel used in the construction, installation, maintenance, operation, and repair of said utilities.

NW Centre, L.L.C.

By: [Signature] MEMBER  
Name: Brendley Saville  
Title: MEMBER

STATE OF KANSAS                     )  
  ) SS  
COUNTY OF SEDGWICK            )

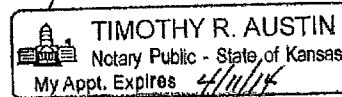
BE IT REMEMBERED, That on this 2<sup>nd</sup> day of March, 2012, before me, the undersigned, a Notary Public in and for the county and state aforesaid, came Brendley Saville, Member, NW Centre, L.L.C., personally known to me and he/she has executed this instrument of writing on the date above first written.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

[Signature]  
Notary Public

My Commission Expires: Apr. 11, 2014

**Approved as to form:**



Gary E. Rebenstorf, Director of Law

**UTILITY EASEMENT**

THIS INDENTURE MADE THIS 2<sup>nd</sup> day of March, 2012, between NW Centre, L.L.C. ("Grantor"), and the City of Wichita, a municipal corporation, ("Grantee").

**WITNESSETH:**

Grantor in consideration of the sum of \$1.00 and other valuable considerations, the receipt of which is hereby acknowledged, does hereby grant and convey unto Grantee a utility easement over and across the following described real estate situated in Sedgwick County, Kansas, to-wit:

The westerly 10 feet of Lot 4, Block 1, Pearson Farms 3<sup>rd</sup> Addition, Sedgwick County, Kansas.

to be used for the construction, installation, maintenance, operation and repair of public utilities, giving unto Grantee, its officers, agents employees, and other necessary personnel, the right of ingress and egress thereto and therefrom and the right to take thereon and remove therefrom all necessary tools, machinery, appurtenances, material and personnel used in the construction, installation, maintenance, operation, and repair of said utilities.

IT IS AGREED AND UNDERSTOOD between the parties that Grantor retains the fee title to said real estate and may have the use of the surface thereof when the same does not conflict or interfere with the right and privilege granted to Grantee herein and that this grant is binding upon and extends to the successors and assignees of Grantor.

IN WITNESS WHEREOF, Grantor has caused this indenture to be signed by its duly authorized officers and the corporate seal affixed hereto, all on the day and year first above written.

